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Subject: Twelfth 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

Delegations will find attached the above-mentioned draft report, as it stands after examination by the Working Party on Information at its meetings on 7 March and 25 April 2014.

The Permanent Representatives Committee is accordingly asked to suggest that the Council, at its next meeting, record its agreement to the report set out below.

DRAFT

**TWELFTH ANNUAL REPORT OF THE COUNCIL ON THE
IMPLEMENTATION OF REGULATION (EC) 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**

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INTRODUCTION

The present annual report on public access to Council documents describes trends in requests for access to documents and highlights key developments in the Council's implementation of the Regulation in 2013. The report also reviews complaints submitted to the European Ombudsman as well as rulings given by the European Courts in 2013 under Regulation (EC) No 1049/2001 in cases relating to access to Council documents.

Whilst access to documents is an important aspect of *the principle of openness*, it is not the only aspect. The Council and the European Parliament meet in public when considering and voting on a legislative act. Furthermore, the Council's debates on important issues affecting the interests of the Union and its citizens are often held in public.

A number of measures aiming at facilitating the public's access to factual information and documents about the Council's work has been or will be taken in the near future. To that end, the Council's website is currently undergoing a general overhaul. In addition, a database of voting records on legislative acts became accessible online in 2013. Finally, the Council continues to cooperate with transparency stakeholders through more consistent contacts and a more proactive approach.

I. THE COUNCIL OPENING UP TO THE GENERAL PUBLIC

1. Council deliberations conducted in public

A substantial part of each Council meeting is available for public viewing. The table below shows the different types of public deliberation, their legal basis, broadcast requirements, content, and frequency.

A Items legislative deliberation	AGENDA legislative deliberation	AGENDA policy debates	AGENDA programmes
Article 16(8) TEU Article 15(2) TFEU Article 7(1) CRP	Article 16(8) TEU Article 15(2) TFEU Article 7(1) CRP	Article 8(2) CRP	Article 8(3) CRP
<ul style="list-style-type: none"> • broadcast in all official languages • identification of speakers • link to document(s) • display of votes 	<ul style="list-style-type: none"> • broadcast in all official languages • identification of speakers • link to document(s) 	<ul style="list-style-type: none"> • broadcast in all official languages • identification of speakers • link to document(s) 	<ul style="list-style-type: none"> • broadcast in all official languages • identification of speakers • link to document(s)
<ul style="list-style-type: none"> • formal adoption of legislative acts where there is already agreement and the necessary unanimity or QMV has been reached, • individual MS votes are announced and displayed 	<ul style="list-style-type: none"> • whenever the Council considers, debates, discusses and/or adopts a legislative act 	<ul style="list-style-type: none"> • debates on important issues affecting EU interests • may be proposed by Presidency, any MS or the Commission • Council (or Coreper) decide by QMV to hold the debate 	Pre-defined debates: <ul style="list-style-type: none"> • Council's 18 month programme (GA Council) • priorities of other Council's configurations • Commission's five-year programme, annual work programme and annual policy strategy
Average of 125 per year, with a total of 150 items adopted in 2013	Average of 150 per year, with a total of 170 items discussed in 2013	Average of 40 per year, with a total of 44 policy debates held in 2013	Average of 8 per year, with a total of 16 held in 2013

Through the [Council's webcast](#), members of the public can watch live Council public deliberations or browse through past recordings. All intervening Member States are identified, so that viewers can concentrate on the interventions related to their interests. Viewers can also choose the EU language in which they would like to hear the interventions. Press conferences are broadcast live through webcast as well.

Provisional agendas with indicative timetables are published before meetings on the [Council's website](#), allowing viewers to find out when public deliberations are taking place.



[Invasive alien species](#)



Figure 1: Webcast showing identification of Member States

2. Access to documents related to legislative and other public deliberations

Documents submitted to the Council under a public deliberation item are public, as are the voting records on the adoption of legislative acts. The Council's webcast contains links to the documents being discussed or adopted and an image showing the related vote.

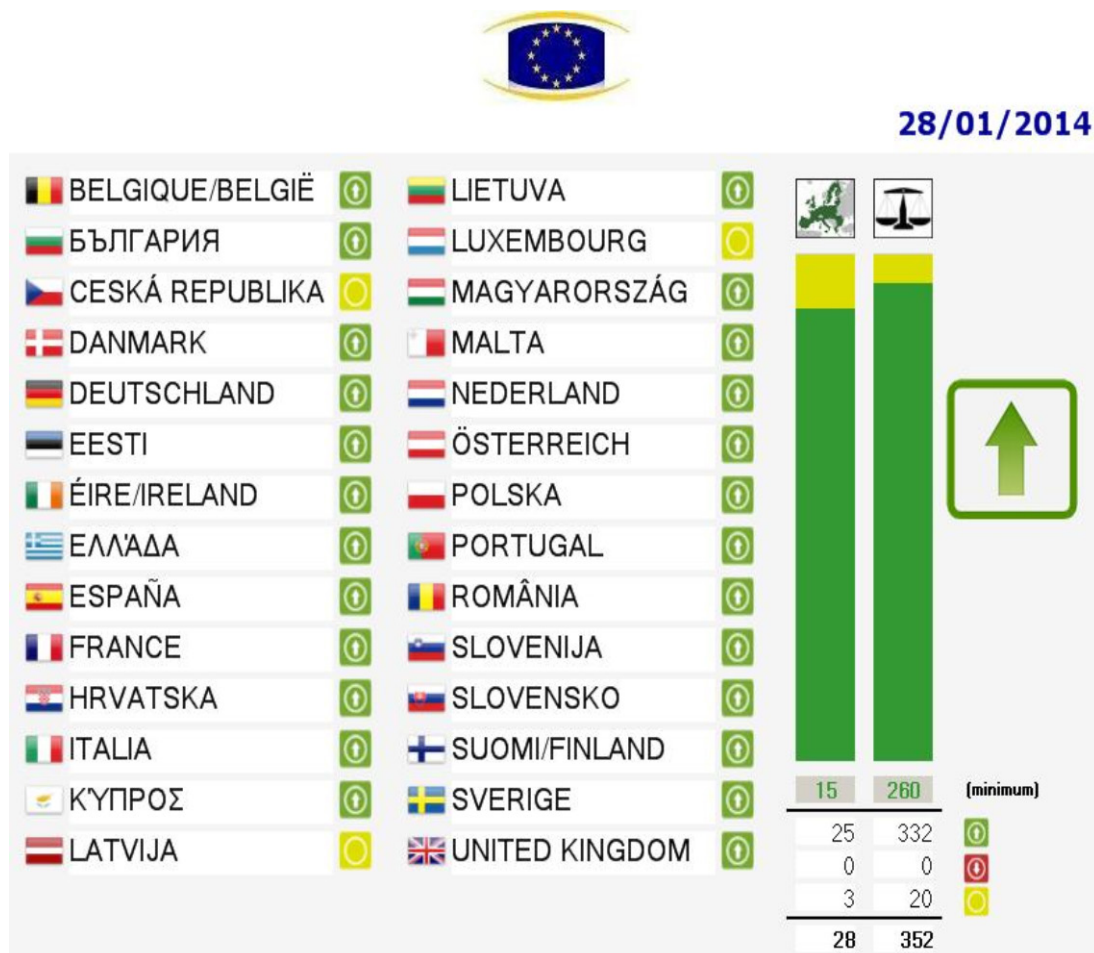


Figure 2: Voting record

Once legislative acts are adopted, the Council releases preparatory documents drafted during their negotiations in accordance with Article 11(6) of Annex II of the Council's rules of procedure.

II. IMPLEMENTATION OF REGULATION (EC) NO 1049/2001

1. Public register of Council documents

The public register of Council documents contains references to official Council documents produced since 1999. It is constantly updated via an automatic archiving system. Documents which are made accessible to the public upon circulation or have been disclosed fully or in part following a request for public access can be downloaded from the register. Furthermore, documents relating to the activities of the **European Council**, including its conclusions and the draft minutes of its meetings, are also recorded in the public register of Council documents. The same applies to the preparatory documents submitted to the **European Council** by the Council of the European Union.

The number of documents in the public register grows every year:

	2011	2012	2013
New original language documents added to the register	26 261	24 511	23 453
Total number of original language documents	244 876 (of which 67.2% available for download)	267 619 (of which 65,8% available for download)	293 350 (of which 66,3% available for download)

The register also contains documents which have been partially released to the public following a request for access. Such documents bear the code "P/A". On 31 December 2013, there were 4 721 original language documents bearing this code.

Many documents are translated into one or several official EU languages. In July 2013, the public register reached the threshold of 2 000 000 documents, all language versions included.

In 2013, 333 sensitive documents¹ were distributed, 48 classified as "SECRET UE/EU SECRET" and 285 as "CONFIDENTIEL UE/EU CONFIDENTIAL", out of which 18 "CONFIDENTIEL UE" are mentioned in the register^{2 3}. No documents classified as "TRÈS SECRET UE/EU TOP SECRET" were produced in 2013.

Around 5% of the original language documents recorded in the public register, i.e. 15 091 documents, were classified as "RESTREINT UE/EU RESTRICTED".

An average of 58 900 people visited the public register each month in 2013, with a yearly total of 706 920 unique visitors.

2. Requests for public access to documents

Requests for public access to Council and European Council documents are processed at the initial stage by the General Secretariat of the Council. In the event of a total or partial refusal of the request, the applicant may submit a confirmatory application asking the institution concerned to reconsider its position. If the confirmatory application is totally or partially refused, the applicant may lodge a complaint with the European Ombudsman or initiate proceedings before the General Court of the European Union.

¹ For the purposes of Regulation (EC) No 1049/2001, "sensitive documents" means documents classified as "CONFIDENTIEL UE/EU CONFIDENTIAL", "SECRET UE/EU SECRET" or "TRÈS SECRET UE/EU TOP SECRET". On this subject, see Article 9(1) of that Regulation.

² In accordance with Article 9(2) and Article 11(2) of Regulation (EC) No 1049/2001.

³ It was discovered in 2013 that due to a technical error, the figures given in the past for the number of documents classified as "CONFIDENTIEL UE/EU CONFIDENTIAL" were erroneously multiplied. This error was corrected in 2013.

In 2013, the Council received 2 212⁴ initial requests for public access to a total of 7 564 documents (including 680⁵ classified documents, of which 20 were classified as "CONFIDENTIEL UE/EU CONFIDENTIAL" and 660 classified as "RESTREINT UE/EU RESTRICTED"). These requests were submitted by 873 individual applicants⁶.

If a request for public access relates to a very long document or to a very large number of documents, the institutions have the possibility to confer with the applicant informally, with a view to finding a fair solution⁷ (known as "6(3) applications"). The number of "6(3) applications" has remained relatively stable over the years; the General Secretariat confers informally with applicants in approximately 20 cases per year. Such applicants, in most cases academic researchers, submit requests for access to a large number of documents (sometimes more than 1 000) which may be difficult to identify due to their age, classification or subject matter or which cover several years. In some cases, the processing of the application may be considerably delayed due to lengthy declassification procedures involving third parties, including Member States and occasionally third countries.

When conferring with applicants in such cases, the General Secretariat usually suggests that the documents requested be examined in batches, thus allowing the applicant to receive replies from the General Secretariat on a regular basis. The average total processing time for "6(3) applications" is 75 working days. However, the actual processing time, i.e. the number of man hours invested, may vary considerably, depending on the specific nature of the individual requests.

The annex to this report provides detailed statistics on public access to Council documents for the last five years (2009-2013).

⁴ This represents an 18% increase in the number of initial requests received by the General Secretariat compared with 2012.

⁵ This is a 25% increase on the 2012 figure.

⁶ Like in 2012, the vast majority of requests were submitted by a relatively small number of applicants. In 2013, 1.3% of 873 individual applicants (i.e. 15 individuals) accounted for more than 40% of the initial requests. The majority of applicants (664) submitted only one request for public access in 2013.

⁷ See Article 6(3) of Regulation (EC) No 1049/2001.

2.1 *New types of request for public access*

Two types of request received by the Council in 2013 deserve to be mentioned here, since both underline the importance of a consistent and structured approach to keeping records in helping ensure that the GSC meets its legal obligations, including those regarding to transparency.

Regarding the first type of request, in 2013 the Council received for the first time requests for public access to extracts from databases. More specifically, the requests concerned the database used by the Transparency service of the General Secretariat of the Council for the handling of requests for access and the database behind the Council's public register of documents. A positive reply was given to both requests.

Case-law has established that a collection of data contained in a database may constitute a document, and anything that can be extracted from a database by means of a normal or routine search may be the subject of an application for access⁸. The possibility that a database may contain a very large amount of data overall is therefore not a cogent reason for denying that those data constitute a document.

The second type of request, received by the European Council, related to correspondence between the President of the European Council, Herman Van Rompuy, or his Cabinet, and certain organisations, interest groups or companies. To handle these requests, the General Secretariat of the Council cooperated closely with the President's Cabinet. Adequate filing of such documents enabled them to be identified, traced and then examined.

⁸ See General Court judgment in Case T-436/09 (Dufour v ECB), especially paragraphs 103 and 153.

2.2 Professional profiles and geographical distribution of applicants

According to Regulation (EC) No 1049/2001, applicants are neither required to provide information about their identity nor to give reasons for their requests. A certain number of applicants indeed choose not to reveal their occupation. The proportion of such applicants is constantly increasing (18.8% in 2013 compared with 16.4% in 2012).

In 2013, civil society organisations were the most active category of applicants for the first time, ahead of the academic world and law firms. The commercial/industrial sector, consultancy organisations, NGOs and other interest groups are included in this professional category⁹. The rapidly increasing activity of applicants working in consultancy organisations was the most important factor in this increase. Such organisations monitor the work of the EU institutions and provide their clients with analyses of EU policy and politics. Consultants working for such organisations follow EU activities closely and apply for public access to documents of interest to their clients, mainly documents relating to the legislative activity of the Council. In 2013, nine consultants were among the group of 15 applicants who submitted the most requests per person (see footnote 6 on page 10). In total, almost 25% of requests received in 2013 were submitted by consultants.

The second largest group of applicants in 2013, those from the academic world, traditionally submit a large number of requests for public access in May and June, i.e. towards the end of the academic year. In 2013, there was an exceptional increase in the number of requests originating from this category of applicants in July (50 requests, compared to 33 in June and 39 in May), giving the impression that many researchers started their work only once the academic year is over.

⁹ Until 2012, the figures in Annex I to the Council's annual reports on access to documents relating to consultancy organisations were taken into account in the "Others" professional category. Due to the growing importance of consultants as applicants, it was decided in 2013 to include them in the "Civil society" category instead.

In addition to April and May, during which a relatively large number of requests is traditionally received from all categories of applicants, an increase in the number of requests received was also observed in October, November and December: almost 30% of the total number of requests received in 2013 were submitted during the last three months of the year. More than 50% of these were submitted by applicants working in consultancy organisations¹⁰. August continued to be the month in which the lowest number of applications were received.

As regards the geographical distribution of applicants, the majority of initial requests came from Belgium (28%), Germany (18.5 %) and the United Kingdom (10.2 %), whilst 26.1% of confirmatory requests came from Belgium, 21.7% from Germany and 8.7% from the Netherlands.

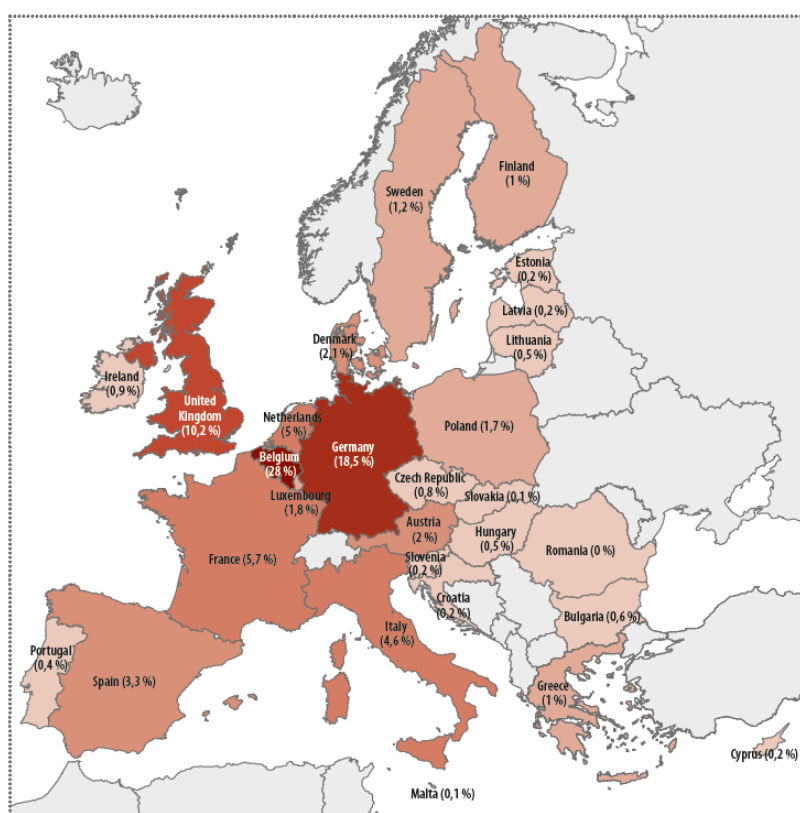


Figure 3: Geographical distribution of applicants (initial requests)

The relatively high number of initial and confirmatory requests originating from Belgium is explained by the fact that many multinational companies, international law firms and associations representing various economic and industrial sectors at European level have their headquarters in Brussels.

¹⁰ As shown in the statistical data provided in chapter I of this report, there was more than the usual amount of legislative activity at the Council in 2013. This could explain the increase in the number of requests, especially from applicants working in consultancy organisations.

2.3 Policy areas covered by the requests

The most popular fields covered by the requests in 2013 were the area of freedom, security and justice, environment and the internal market. The number of requests for access to documents on the traditionally popular field of external relations, including the common foreign and security policy (CFSP) and the European Security and Defence Policy (ESDP), decreased somewhat in 2013. The number of requests for public access to documents on economic and monetary policy continued to increase in 2013. Five percent of initial requests concerned documents on legal questions, whereas almost 50% of the confirmatory applications related to that area.

Out of the 660 classified documents requested, 46% concerned the European Security and Defence Policy (ESDP), 24% the area of freedom, security and justice and 15% the CFSP.

The number of requests concerning matters relating to the environment and the internal market increased quite significantly in 2013. Whereas in 2012, the combined number of requests relating to these two fields was 17.3% of the total number of requests, the corresponding figure in 2013 was 24.3%. Applicants working in consultancy organisations accounted for a large part of this increase. Of a total of 554 requests covering the fields of environment and the internal market in 2013, 194 or 35% were submitted by consultants. This category of applicants is mainly interested in preparatory documents for draft legislative acts, which explains why they request public access to so many documents in the above-mentioned fields. It also explains why big events, such as the United Nations Climate Change Conference in Warsaw, Poland, which took place 11-22 November 2013, did not generate a notable increase in the number of requests for public access to documents in the field of environment.

No significant increase in the number of requests relating to economic and monetary matters could be observed before or during political events like the meetings of the Eurogroup or the European Council either. The European Council meeting on 22 May 2013, which was dedicated to issues relating to taxation and energy, did somewhat increase the number of requests for access to documents relating to taxation, although there was no increase in the number of requests for access to documents relating to energy issues.

Thus, as already observed in 2012, political events did not seem to influence the evolution of requests in 2013.

2.4 Application of exceptions to the right of public access

In 2013, the General Secretariat examined 2 212 requests for access to a total of 7 564 documents, 5 951 of which were made available at the initial stage (5 084 in full and 867 in part), whereas access was refused to 1 613 documents.

During the same period, 25 confirmatory applications were made in respect of 77 documents:

- for 65 documents, the Council confirmed the initial position of its General Secretariat;
- for 8 documents, partial or extended partial access was granted; and
- 4 documents were released in their entirety.

2.4.1 Grounds for refusal

The grounds for refusal of access or partial access most frequently invoked at the initial stage were:

- protection of the decision-making process
- protection of the public interest as regards international relations
- protection of the public interest as regards public security
- protection of privacy and the integrity of a natural or legal person, including intellectual property

In 33.4% of cases where access was fully refused, several grounds for refusal were invoked (in more than half of the cases these grounds were protection of the public interest as regards public security together with protection of the public interest as regards international relations). In 19.5% of cases where access was partially refused, several grounds for refusal were invoked (most often the protection of court proceedings and legal advice in conjunction with the protection of the decision-making process of the institution).

III. COMPLAINTS LODGED WITH THE EUROPEAN OMBUDSMAN AND LEGAL ACTION TAKEN

This chapter reviews complaints submitted to the European Ombudsman as well as rulings given by the EU Courts in 2013 concerning public access to documents of the Council or the European Council.

1. Complaints lodged with the European Ombudsman

Complaint 1649/2012/RA of 9 August 2012

This complaint was lodged against the Council for having refused access to a document setting out the Common Steps towards visa-free short term travel of Russian and EU citizens (doc. 18217/11)¹¹. The Council had sent its reply concerning this complaint to the European Ombudsman on 20 December 2012 explaining that disclosure of the document would negatively affect the climate of confidence among actors involved in the negotiations and would prejudice the EU's relations with Russia. Subsequently, the Russian authorities gave their consent to public disclosure of the document, and the General Secretariat of the Council was therefore in a position to transmit the document to the applicant in March 2013. The Council informed the Ombudsman accordingly by letter sent on 25 March 2013.

By letter of 9 September 2013, the Ombudsman informed the Council that he had decided to close his inquiry to the complaint with the conclusion that the Council had settled the matter and thereby satisfied the complainant. He also suggested that it would be in the interest of good administration for the Council to raise with its negotiating partner, at the outset of future such negotiations, the Council's obligation to conduct its work as openly as possible. In the event that the other contracting party chooses to insist on documents relating to negotiations remaining secret, the Council would then at least be in a position to inform any future applicant, who requests access to a document, of the precise origin of the opposition to disclosure.

¹¹ See also the 2012 Council annual report on public access to documents, page 15.

Moreover, the Ombudsman added a further remark in his letter, suggesting that the Council consider taking steps towards EU participation in the Open Government Partnership (OGP). According to the Ombudsman, this could increase the Union's credibility in the field and provide a forum in which to encourage greater openness by Russia.

The Council was invited to inform the Ombudsman by 31 March 2014 on any action taken in relation to the findings. By 31 December 2013 the Council had not yet replied.

Complaint 1854/2012/KM of 11 September 2012

This complaint concerned the refusal by the Council to grant full public access to three documents (7008/09, 7008/09 COR 1 and 10491/1/09 REV 1 (RESTREINT UE)) concerning the use of political clauses in agreements between the EU and third countries¹². In a letter of 15 October 2012, the Ombudsman informed the Council about the complaint and asked the institution to arrange for an inspection of the documents before deciding whether an inquiry was justified, i.e. before inviting the Council to submit observations on the complaint. This inspection took place on 28 January 2013.

The Ombudsman sent the Council the final report concerning the outcome of the inspection on 4 March 2013. This report concluded that it was not "*prima facie* clear to the Ombudsman's representatives why certain passages in both the RESTREINT UE and the LIMITE documents were considered as being covered by the exception invoked" and that the Council's representatives were asked to "consider whether further partial access to both documents was still possible beyond what was already granted".

On 29 April 2013, the Council sent the Ombudsman its response, aimed at addressing the specific request made in the inspection report. In this response the Council indicated that, due to changed circumstances - the subsequent disclosure of documents containing passages with content similar to certain passages in two of the requested documents - it had concluded that extended partial access could be granted to the documents in question, i.e. 7008/009 and 10491/1/09 REV 1 (RESTREINT UE).

¹² See also the 2012 Council annual report on public access to documents, page 16.

By 31 December 2013, the Council had not received a decision from the Ombudsman concerning this complaint.

Complaint 167/2013/RT of 4 October 2012

In this case, the complainant challenged the Council's decision to refuse full public access to a document issued by its Legal Service concerning the role of the Court of Justice in the context of the "Fiscal Compact Treaty"¹³. Since the new complaint was already covered by the complainant's earlier contact with the Council, the Ombudsman started a new inquiry.

On 29 April 2013, the Council sent the Ombudsman its reply concerning this complaint. In its reply the Council indicated that the requested document, an opinion of the Council Legal Service, concerned the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, an intergovernmental agreement drawn up outside the legal and institutional framework established by the EU Treaties. As such, this was not considered to concern a matter relating to the policies, activities and decision falling within the Council's own sphere of responsibility under Article 3 of Regulation No. 1049/2001. However, the Council had considered the complainant's request for access having regard to the provisions of that Regulation. The Council explained that the opinion provides legal advice on an enforcement mechanism that is essential for the efficient implementation of the economic and financial policy of participating Member States and that its disclosure would undermine the protection of the public interest as regards the financial, monetary or economic policy of participating Member States. The Council had also referred to the sensitivity of the matters concerned and to the concrete risk of litigation in respect of the matters covered by the advice and had therefore concluded that disclosure of the opinion would undermine the protection of legal advice.

On 14 May 2013, the Ombudsman's representatives inspected the requested document. At the end of 2013, this inquiry was still pending.

¹³ This complaint was a follow-up to complaint 862/2012/RT which the Ombudsman decided to close for procedural reasons in January 2013; see the 2012 Council annual report on public access to documents, pages 15-16.

2. Legal action

In 2013, the General Court delivered one ruling regarding an action brought against a Council decision to refuse public access to documents under Regulation (EC) No 1049/2001. Furthermore, the Court of Justice delivered one ruling following an appeal by the Council to set aside an earlier judgment of the General Court.

Firstly, in its judgment of 12 September 2013 in Case T-331/11 (Leonard Besselink v Council of the European Union), the General Court annulled the Council's decision of 1 April 2011 by which it refused, pursuant to the third indent of Article 4(1)(a) of Regulation (EC) No 1049/2001 (protection of the public interest with regard to international relations), to grant full public access to document 9689/10, but granted partial access in accordance with Article 4(6) of that Regulation. Document 9689/10 is a note from the Presidency to delegations containing a draft Council Decision authorising the Commission to negotiate the Accession Agreement of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

In its judgment, the General Court held that the Council had made a manifest error of assessment in refusing access to Negotiating Directive No 5. It also held that, in the context of partial access to the document, the Council had not fulfilled its obligation to limit its refusal solely to the information covered by the exception on which it relied. It therefore also annulled the Council's decision in that it had refused access to parts of the document which set out principles laid down by the EU Treaty that should govern negotiations for the accession of the Union to the ECHR, or which only set out the questions to be addressed in the negotiations.

Following the judgment, the Council re-examined the confirmatory application made by the applicant, taking due account of the passing of time and of the fact that a draft Agreement on the Accession of the European Union to the ECHR has now been agreed at negotiators' level. Following this re-examination, the Council concluded that it was no longer under an obligation to refuse access to 9689/10 under Article 4(1)(a), third indent, or under any other exception contained in Article 4 of Regulation (EC) No 1049/2001. The applicant was therefore granted access to the document in its entirety.

Secondly, in its judgment of 17 October 2013 in *Case C-280/11 P (Council v Access Info Europe)*, the Court of Justice dismissed the appeal brought by the Council against the judgment of the General Court of 22 March 2011 in *Case T-233/09*. This judgment annulled the Council's decision of 26 February 2009 refusing, pursuant to the first subparagraph of Article 4(3) of Regulation 1049/2001 (protection of the institution's on-going decision-making process), access to those parts of the requested document (16338/08) which allowed the delegations which submitted proposals for amendments regarding a proposed legislative act to be identified.

In its judgment, the Court rejected the specific grounds of appeal which the Council had relied on.

In the light of those circumstances, and considering that there appeared to be no additional arguments which would have justified a refusal to grant access to the undisclosed parts of that particular document under Article 4 of Regulation (EC) No 1049/2001, the Council concluded, when re-examining the applicant's confirmatory application, that public access could be granted to 16338/08 in its entirety.

Pending court cases

By application registered with the General Court on 6 August 2013 and notified to the Council on 16 August 2013, Mr Samuli Miettinen brought an action before the General Court (case T-395/13) for the annulment of the Council's decision of 13 May 2013, in which it had refused to grant full public access to 12979/12 pursuant to the second indent of Article 4(2) (protection of the public interest as regards legal advice) and to the first sub-paragraph of Article 4(3) (protection of the Council's decision-making process) of Regulation (EC) No 1049/2001. The requested document contains an opinion of the Council Legal Service regarding the Proposal for a Directive of the European Parliament and of the Council on criminal sanctions for insider dealing and market manipulation, and a Regulation on insider dealing and market manipulation and other instruments regarding the harmonisation of administrative sanctions in the framework of financial services.

In addition to the above-mentioned case, an appeal case brought by the Council in 2012¹⁴ is still pending before the Court of Justice.

¹⁴ C-350/12 P (Council v. Sophie In't Veld) against the ruling of the General Court in case T-529/09; see the 2012 annual Council report on public access to documents, pages 16-17.

IV. FINAL REMARKS

As suggested by the statistical data set out in chapter II of this report, in 2013 the Council's public register remained a valuable search tool for members of the public seeking to exercise their right to access to documents.

According to the available data concerning the professional background of the applicants, the vast majority belong to very specific groups, who in one way or another are specialised in European affairs and thus familiar with the Council's and most probably other EU institutions' roles and activities.

It is nevertheless interesting to note a considerable increase in the number of applications submitted by representatives of consultancy firms and civil society organisations, which in 2013 surpassed the academic environment as the most active category of applicants. It is also worth noting that this change is reflected in the increasing number of requests for access to documents relating to the Council's legislative activities (notably concerning the internal market and EU environment policy), and coincides with an almost 20% increase in the number of initial requests for public access to Council documents.

The thorough examination of initial requests has led to a significant decrease in the number of confirmatory applications in recent years. Thus in 2013, the number of confirmatory requests remained stable, corresponding to roughly 1% of the total number of initial requests.

On balance, the analysis of the processing of requests for public access and use by members of the public of the arrangements made for them to exercise their right of public access suggest that the aims set by the Treaties and by Regulation (EC) No 1049/2001 continued to be achieved in 2013.

STATISTICS ON PUBLIC ACCESS TO COUNCIL DOCUMENTS
Situation on 31/12/2013

1. Number of applications pursuant to Regulation (EC) No 1049/2001

2009	2010	2011	2012	2013
2.666	2.764	2.116	1.871	2.212

2. Number of documents requested by initial applications

2009	2010	2011	2012	2013
8.444	9.188	9.641	6.166	7.564

3. Documents released by the General Secretariat of the Council at the initial stage

2009	2010	2011	2012	2013
6.453	7.847	8.506	4.858	5.951
partially/entirely 1.117 5.336	partially/entirely 1.369 6.478	partially/entirely 1.103 7.403	partially/entirely 998 3.860	partially/entirely 867 5.084

4. Number of confirmatory applications (a confirmatory application may be made if the initial application is refused)

2009	2010	2011	2012	2013
33	28	27	23	25

5. Number of documents considered by the Council following confirmatory applications and number of documents released

2009	2010	2011	2012	2013
351	181	60	78	77
88 partially/entirely 25 63	118 partially/entirely 80 38	41 partially/entirely 15 26	27 partially/entirely 17 10	33 partially/entirely 29 4

6. Percentage of documents released for the procedure as a whole¹⁵

2009		2010		2011		2012		2013	
63,9%	77,5%	70,9%	86,7%	77%	88,6%	64,9%	81,2%	67,6%	79,5%

7. Number of documents referred to in the public Register and number of documents accessible to the public/available to download

2009		2010		2011		2012		2013	
1.371.608	1.039.973 (75,8%)	1.545.754	1.163.489 (75,3%)	1.729.944	1.337.933 (77,3%)	1.915.737	1.480.557 (77,3%)	2.076.220	1.583.636 (76,3%)

¹⁵ Based on documents released entirely (left column) or entirely + partially (right column).

8. Professional profile of applicants (initial applications)

		2009		2010		2011		2012		2013	
Civil society	Consultants	27,3%		27,9%		25,8%		9,3%	27,2%	7%	29,4%
	Environmental Lobbies							0,3%		0,1%	
	Other groups of interests							5,7%		6,2%	
	Industrial/ Commercial Sector							8,3%		10,4%	
	NGOs							3,6%		5,7%	
Journalists		2,7%		2,6%		3,3%		2,8%		1,8%	
Lawyers		11,4%		10,1%		10%		9,8%		10%	
Academic world	University Research	32,7%	33,7%	32,5%	33,7%	35,7%	37,6%	32,2%	33,4%	27,9%	29,2%
	Library	1%		1,2%		1,8%		1,2%		1,3%	
Public authorities (non-EU institutions, third-country representatives, etc.)		4,1%		5,6%		5,4%		4,0%		4,4%	
Members of the European Parliament and their assistants		1,4%		1,1%		0,9%		1%		0,6%	
Others		9,8%		9,4%		5,3%		6,6%		5,8%	
Undeclared professional origin		12,6%		13,3%		13,5%		16,5%		18,8%	

9. Professional profile of applicants (confirmatory applications)

		2009		2010		2011		2012		2013	
Civil society	Consultants	15,6%		27%		19,3%		0%	28,5%	4,4%	21,8%
	Environmental Lobbies							0%		0%	
	Other groups of interests							19%		4,4%	
	Industrial/ Commercial Sector							0%		0%	
	NGOs							9,5%		13%	
Journalists		6,2%		7,7%		11,5%		9,5%		0%	
Lawyers		18,8%		11,5%		15,4%		14,3%		13%	
Academic world	University Research	46,9%	46,9%	42,3%	42,3%	34,6%	34,6%	23,8%	23,8%	43,5%	43,5%
	Library	0%		0%		0%		0%			
Public authorities (non-EU institutions, third-country representatives, etc.)		0%		0%		0%		0%		0%	
Members of the European Parliament and their assistants		3,1%		0%		3,8%		4,8%		0%	
Others		3,1%		3,8%		7,7%		4,8%		4,3%	
Undeclared professional origin		6,3%		7,7%		7,7%		14,3%		17,4%	

10. Geographical distribution of applicants (initial applications)

	2009	2010	2011	2012	2013	
Belgium	28,2%	29,3%	30,5%	33,0%	28%	
Bulgaria	0,3%	0,2%	0,4%	0,1%	0,6%	
Czech Republic	1,2%	1,1%	1%	0,7%	0,8%	
Denmark	1%	1,6%	1%	0,6%	2,1%	
Germany	14,8%	13,9%	14,5%	14,6%	18,5%	
Estonia	0,1%	0,1%	0%	0%	0,2%	
Greece	0,8%	0,8%	0,7%	0,5%	1%	
Spain	5,9%	5,5%	3,5%	3,3%	3,3%	
France	8%	7,5%	7,7%	7,3%	5,7%	
Ireland	0,9%	0,4%	0,7%	1,1%	0,9%	
Italy	4,7%	5,4%	6,3%	5,6%	4,6%	
Cyprus	0,3%	0%	0,2%	0,1%	0,2%	
Latvia	0,2%	0,1%	0,2%	0,1%	0,2%	
Lithuania	0,2%	0,3%	0,1%	0%	0,5%	
Luxembourg	1,8%	1,3%	1,3%	1,2%	1,8%	
Hungary	1%	0,7%	0,8%	0,2%	0,5%	
Malta	0,3%	0,4%	0,2%	0,2%	0,1%	
Netherlands	5,7%	4,8%	7,6%	5,8%	5%	
Austria	1,9%	2,1%	1,9%	1,9%	2%	
Poland	1,4%	2,4%	1,6%	2,3%	1,7%	
Portugal	0,8%	1,2%	0,9%	0,7%	0,4%	
Romania	1,2%	1%	0,2%	0,2%	0%	
Slovenia	0,4%	0,3%	0,2%	0,1%	0,2%	
Slovakia	0,6%	0,7%	0,3%	0,5%	0,1%	
Finland	0,2%	0,5%	0,4%	0,6%	1%	
Sweden	1,8%	2%	1,3%	1,2%	1,2%	
United Kingdom	8,7%	9%	9,2%	11,5%	10,2%	
Third countries	Candidate countries	0,3%	0,3%	0,5%	0,2%	0,2%
	Others	6,5%	6,5%	5,9%	4,2%	3,5%
Non specified	0,8%	0,6%	0,9%	2,2%	5,5%	

11. Geographical distribution of applicants (confirmatory applications)

	2009	2010	2011	2012	2013	
Belgium	22,6%	28%	23,1%	38,1%	26,1%	
Bulgaria	0%	0%	0%	0%	0%	
Czech Republic	0%	4%	0%	0%	0%	
Denmark	0%	0%	3,9%	0%	0%	
Germany	25,8%	20%	19,2%	19%	21,7%	
Estonia	0%	0%	0%	0%	0%	
Greece	0%	0%	0%	0%	0%	
Spain	9,7%	4%	3,8%	0%	0%	
France	6,4%	4%	7,7%	9,5%	4,4%	
Ireland	0%	0%	0%	0%	0%	
Italy	6,4%	4%	7,7%	0%	4,4%	
Cyprus	0%	0%	0%	0%	0%	
Latvia	0%	0%	0%	0%	0%	
Lithuania	0%	0%	0%	0%	0%	
Luxembourg	3,2%	0%	0%	0%	0%	
Hungary	0%	0%	0%	0%	0%	
Malta	0%	0%	0%	0%	0%	
Netherlands	6,5%	4%	7,7%	4,8%	8,7%	
Austria	0%	0%	0%	0%	0%	
Poland	0%	4%	0%	0%	4,3%	
Portugal	0%	0%	0%	0%	0%	
Romania	0%	0%	0%	0%	0%	
Slovenia	0%	0%	0%	0%	0%	
Slovakia	0%	0%	0%	0%	0%	
Finland	0%	0%	0%	0%	4,4%	
Sweden	0%	8%	0%	0%	0%	
United Kingdom	9,7%	16%	23,1%	14,3%	4,4%	
Third countries	Candidate countries	0%	4%	0%	0%	4,3%
	Others	9,7%	0%	0%	0%	4,3%
Non specified	0%	0%	0%	14,3%	13%	

12. Sectors concerned by requests for access

	2009	2010	2011	2012	2013
Agriculture, Fisheries	7,3%	3,9%	3,5%	5%	3%
Internal Market	7,7%	7,9%	8%	9,7%	11,7%
Research	0,5%	0,5%	0,4%	1%	2,1%
Culture	0,3%	0,2%	0,2%	0,7%	0,5%
Education/Youth	0,6%	1,1%	0,4%	0,2%	0,6%
Industry	0,6%	0,1%	0,1%	0%	0,4%
Competitiveness	1,9%	1,5%	1,4%	1,6%	1,1%
Energy	3,5%	0,9%	2,1%	2,7%	2%
Transport	1,9%	2,5%	1,5%	1,4%	2,6%
Environment	8,6%	10,7%	9,1%	7,6%	12,6%
Health and Consumer Protection	8,1%	5,6%	3,6%	3,5%	4,5%
Economic and Monetary Policy	2,6%	4,4%	5,9%	6,9%	8,7%
Tax Questions – Fiscal Issues	7,6%	7,5%	12,5%	6,7%	3,7%
External Relations – CFSP	12,2%	14,4%	12,8%	10,7%	8,1%
Civilian Protection	0,2%	0,1%	0%	0,6%	0,8%
Enlargement	1,4%	0,8%	1%	1,2%	0,4%
Defence and Military matters	4,6%	4%	2,2%	2,7%	2,5%
Assistance for Development	0,3%	0,2%	0,1%	0%	0,4%
Regional Policy and Economical/Social Cohesion	0%	0%	0,1%	0,4%	0,1%
Social Policy	3,4%	4%	2,7%	3,9%	5,2%
Justice and Home Affairs	15,3%	14%	19,5%	18,1%	16,8%
Legal questions	2,7%	2,6%	3,1%	5,4%	5%
Functioning of the institutions	0,8%	2,1%	2,4%	2,4%	2,8%
Financing of the Union (Budget, Statute)	0,2%	0,1%	0,2%	0,8%	0,4%
Transparency	0,3%	0,3%	0,3%	1,2%	0,5%
General policy questions	0,5%	1%	0,6%	0,7%	1,1%
Parliamentary Questions	4,1%	5,3%	3%	2,5%	0,7%
Various	0,5%	0,6%	0,2%	0,2%	0,1%

13. Reasons for refusal of access (replies provided by the General Secretariat of the Council at the initial stage)

	2009		2010		2011		2012		2013	
	#	%	#	%	#	%	#	%	#	%
Protection of public interest as regards public security	109	5,6%	92	7%	93	8,9%	64	5,8%	58	3,8%
Protection of public interest as regards defence and military matters	67	3,5%	25	1,9%	15	1,4%	18	1,6%	9	0,6%
Protection of public interest as regards international relations	442	22,9%	319	24,2%	221	21,2%	226	20,5%	375	24,7%
Protection of public interest as regards the financial, monetary or economic policy of the Community or a Member State	0	0%	6	0,5%	11	1,1%	0	0%	4	0,3%
Protection of privacy and the integrity of the individual (protection of personal data)	5	0,3%	5	0,4%	2	0,2%	2	0,2%	2	0,1%
Protection of commercial interests of a natural or legal person, including intellectual property	1	0%	0	0%	0	0%	0	0%	1	0,1%
Protection of court proceedings and legal advice	8	0,4%	11	0,8%	10	1%	7	0,6%	7	0,5%
Protection of the purpose of inspections, investigations and audits	1	0%	4	0,3%	0	0%	0	0%	0	0%
Protection of the Institution's decision-making process	756	39,1%	436	33,1%	426	40,9%	455	41,3%	556	36,7%
Several reasons together or other reasons	545	28,2%	417	31,7%	264	25,3%	330	30%	503	33,2%
Document not held by the Council/Other author	0	0%	1	0,1%	0	0%	0	0%	0	0%

14. Reasons for refusal of access (replies provided by the General Secretariat of the Council following confirmatory applications)

	2009		2010		2011		2012		2013	
	#	%	#	%	#	%	#	%	#	%
Protection of public interest as regards public security	20	7,6%	24	38,1%	3	15,8%	0	0%	0	0%
Protection of public interest as regards defence and military matters	0	0%	0	0%	0	0%	0	0%	0	0%
Protection of public interest as regards international relations	38	14,5%	35	55,5%	15	78,9%	2	3,9%	20	69%
Protection of public interest as regards the financial, monetary or economic policy of the Community or a Member State	0	0%	0	0%	0	0%	0	0%	0	0%
Protection of privacy and the integrity of the individual (protection of personal data)	0	0%	0	0%	0	0%	0	0%	0	0%
Protection of commercial interests of a natural or legal person, including intellectual property	0	0%	0	0%	0	0%	0	0%	0	0%
Protection of court proceedings and legal advice	0	0%	0	0%	0	0%	1	2%	0	0%
Protection of the purpose of inspections, investigations and audits	0	0%	0	0%	0	0%	0	0%	0	0%
Protection of Institution's decision-making process	0	0%	1	1,6%	0	0%	1	2%	1	3,4%
Several reasons together or other reasons	205	77,9%	3	4,8%	1	5,3%	47	92,1%	8	27,6%
Document not held by the Council/other author	0	0%	0	0%	0	0%	0	0%	0	0%

15. Reasons for refusal in the case of partial access (replies provided by the General Secretariat of the Council at the initial stage)

	2009		2010		2011		2012		2013	
	#	%	#	%	#	%	#	%	#	%
Protection of public interest as regards public security	42	3,7%	56	4,1%	49	4,4%	44	4,8%	28	3,2%
Protection of public interest as regards defence and military matters	2	0,2%	4	0,3%	1	0,1%	2	0,2%	5	0,6%
Protection of public interest as regards international relations	21	1,9%	164	12%	323	29,3%	174	18,8%	57	6,6%
Protection of public interest as regards the financial, monetary or economic policy of the Community or a Member State	0	0%	0	0%	0	0%	0	0%	1	0,1%
Protection of privacy and the integrity of the individual (protection of personal data)	10	0,9%	57	4,2%	35	3,2%	125	13,5%	46	5,3%
Protection of commercial interests of a natural or legal person, including intellectual property	0	0%	0	0%	0	0%	0	0%	0	0%
Protection of court proceedings and legal advice	37	3,3%	111	8,1%	58	5,2%	18	1,9%	32	3,7%
Protection of the purpose of inspections, investigations and audits	0	0%	0	0%	0	0%	0	0%	0	0%
Protection of the Institution's decision-making process	202	18,1%	707	51,6%	422	38,3%	334	36,1%	525	60,5%
Several reasons together or other reasons	803	71,9%	270	19,7%	215	19,5%	228	24,7%	173	20%
Document not held by the Council/Other author	0	0%	0	0%	0	0%	0	0%	0	0%

16. Reasons for refusal in the case of partial access (replies provided by the General Secretariat of the Council at the confirmatory stage)

	2009		2010		2011		2012		2013	
	#	%	#	%	#	%	#	%	#	%
Protection of public interest as regards public security	0	0%	0	0%	1	6,7%	3	13%	1	3,5%
Protection of public interest as regards defence and military matters	0	0%	0	0%	0	0%	0	0%	0	0%
Protection of public interest as regards international relations	0	0%	21	26,2%	6	40%	2	8,7%	0	0%
Protection of public interest as regards the financial, monetary or economic policy of the Community or a Member State	0	0%	0	0%	0	0%	0	0%	1	3,5%
Protection of privacy and the integrity of the individual (protection of personal data)	0	0%	1	1,3%	0	0%	1	4,4%	1	3,4%
Protection of commercial interests of a natural or legal person, including intellectual property	0	0%	0	0%	0	0%	0	0%	0	0%
Protection of court proceedings and legal advice	3	11,6%	0	0%	1	6,7%	1	4,4%	5	17,2%
Protection of the purpose of inspections, investigations and audits	0	0%	0	0%	0	0%	0	0%	0	0%
Protection of Institution's decision-making process	7	26,9%	12	15%	2	13,3%	1	4,3%	15	51,7%
Several reasons together or other reasons	16	61,5%	46	57,5%	5	33,3%	9	65,2%	6	20,7%
Document not held by the Council/other author	0	0%	0	0%	0	0%	0	0%	0	0%

17. Average number of working days taken to reply to an application or to a complaint made to the European Ombudsman

	2009	2010	2011	2012	2013
For initial applications ¹⁶	14 (2666 applications closed)	17 (2764 applications closed)	16 (2116 applications closed)	16 (1871 applications closed)	18 (2212 applications closed)
For confirmatory applications ¹⁷	26 (33 applications closed)	28 (28 applications closed)	29 (27 applications closed)	28 (22 applications closed)	26 (26 applications closed)
Weighted average (initial + confirmatory)	14,15	17,11	16,16	16,15	18,09
Ombudsman	0	50	32	64	0

18. Number of applications with an extended deadline in accordance with Articles 7(3) and 8(2) of Regulation (EC) No 1049/2001

	2009	2010	2011	2012	2013
Initial applications	536 of 2666, i.e. 20,1% of applications	773 of 2764, i.e 28% of applications	513 of 2116, i.e 24,2% of applications	452 of 1871, i.e 24,2% of applications	587 of 2212, i.e 26,5% of applications
Confirmatory applications	32 [of 33]	25 ¹⁸ [of 28]	24 ¹⁸ [of 27]	20 [of 23]	21 [of 25]

¹⁶ These figures comprise both the initial applications submitted according to Article 7 of Regulation (EC) No 1049/2001 and the so-called "6(3) applications".

¹⁷ Confirmatory applications are examined by the Council's Working Party on Information and by the Permanent Representatives Committee (Part 2). Replies to the applicants are adopted by the Council.

¹⁸ The figures concerning the years 2010 and 2011 and published in the Council annual reports for 2010, 2011 and 2012 were vitiated by a minor error and have now been corrected. This explains why the figures concerning 2010 and 2011 differ slightly from the numbers indicated in the previous reports.