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NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	5220/14
Subject:	Decision by the European Ombudsman closing her own-initiative inquiry OI/6/2013/KM

Delegations will find at Annex a copy of a letter sent by the European Ombudsman to the Council concerning the Ombudsman's decision to close her own-initiative inquiry OI/6/2013/KM.

**European Ombudsman**

Emily O'Reilly
European Ombudsman

Mr Uwe Corsepius
Secretary-General
Council of the European Union
1048 BRUSSELS
BELGIQUE

Strasbourg, 11/03/2015

Letter closing own-initiative inquiry OI/6/2013/KM

Dear Mr Corsepius,

On 11 December 2013, I opened an own-initiative inquiry, addressed to the European Commission, European Parliament and Council of the EU, in relation to the time limits for dealing with initial and confirmatory applications for public access to documents provided for in Regulation 1049/2001¹.

The Council replied with relevant information on 12 March 2014, the Commission on 14 March 2014, and Parliament on 3 April 2014. These responses are available to the public on the Ombudsman's website.

The purpose of the inquiry was to examine whether problems of a systemic kind exist in respecting the time limits and, if so, how they might best be tackled. The replies received do, in fact, suggest that there are problems in abiding by the time limits prescribed in the Regulation and these problems appear to be systemic in nature. However, following careful consideration, I have concluded that the effective tackling of these problems is best approached on a broader level than is possible within the confines of the present inquiry. For this reason, I have decided to discontinue the inquiry. However, the reply of the Council, and the replies of both other institutions, will inform my future actions in this area.

Based on the replies I have received, and indeed on our experience in dealing with specific complaints on the matter, it is clear that progress in improving the access to documents regime requires developments on two fronts. Firstly, Regulation 1049/2001 should be amended and expanded in order to create a more comprehensive access to documents/freedom of information

¹ 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, OJ 2001 L 145, p. 43.



regime. Secondly, decision makers handling access applications in EU institutions could benefit from much greater guidance and support from a central source. As regards the possible amendment of Regulation 1049/2001, this is something which might be re-visited in the light of the election of a new European Parliament and new Commission. Clearly, the initiative in this regard does not lie within my own competence as European Ombudsman. However, I would be supportive of any efforts towards a more comprehensive access to documents/freedom of information regime.

In the meantime, as regards the provision of central guidance and support to decision makers, this is an area where my office can be of help under the existing access to documents rules. Our involvement might be by way of the interinstitutional committee provided for at Article 15.2 of Regulation 1049/2001; or it might be by way of guidance drawn up directly by my office and circulated to all EU institutions; or it might be by way of some combination of these approaches.

I will be reflecting on how best to progress matters over the next period and of course am open to your feedback. In the meantime, I wish to thank you for the Council's input to my own-initiative inquiry and to say that I expect to be in communication with you again on the matter.

Yours sincerely,

Emily O'Reilly

cc: Mr Hubert Légal, Director-General of the Legal Service