



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 27 April 2015
(OR. en)**

8114/15

**INF 67
API 38**

"I/A" ITEM NOTE

From: Council of the European Union
To: Permanent Representatives Committee (Part 2)/Council
On: 27 April 2015

No. prev. doc.: 6725/1/15 REV 1 + COR 1 + COR 2

Subject: Thirteenth 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 13 March and 17 April 2015.

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

**THIRTEENTH 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**

CONTENTS

	Page
INTRODUCTION	4
I. IMPLEMENTATION OF REGULATION (EC) No 1049/2001	5
• Public register of Council documents	5
• Requests for public access to Council documents	6
II. ANALYSIS OF REQUESTS FOR PUBLIC ACCESS	8
• Professional profiles and geographical distribution of applicants	8
• Policy areas concerned by the requests for public access	10
• Number of documents examined and released	10
III. APPLICATION OF EXCEPTIONS TO THE RIGHT OF PUBLIC ACCESS	12
IV. COMPLAINTS LODGED WITH THE EUROPEAN OMBUDSMAN AND LEGAL ACTION TAKEN	14
A. COMPLAINTS LODGED WITH THE EUROPEAN OMBUDSMAN	14
B. COURT CASES	22
V. FINAL REMARKS	26
ANNEX: STATISTICS ON PUBLIC ACCESS TO COUNCIL DOCUMENTS	28

INTRODUCTION

This report, drawn up pursuant to Article 17(1) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents ¹, covers the year 2014 and is based on statistical data summarised in its annex. It gives information on the Council's public register of documents and statistics on public access to documents. In addition, the report reviews complaints submitted to the European Ombudsman, as well as rulings given by the Courts of the European Union in 2014 in the field of the Regulation.

Additional information and previous reports on access to Council documents and information on other transparency issues can be found at <http://www.consilium.europa.eu>, under Corporate policies/Transparency/Access to documents.

¹ OJ L 145, 31.5.2001, p. 43. Article 17(1) 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. IMPLEMENTATION OF REGULATION (EC) No 1049/2001

Public register of Council documents

The public register of Council documents contains references to official Council documents produced since 1999². It is constantly updated via an automatic archiving system. Documents which are made accessible to the public upon circulation³ or have been disclosed fully or in part following a request for public access can be downloaded from the register⁴. Furthermore, numerous legislative documents are also made public each year via the public register pursuant to Article 11(6) of Annex II to the Council's Rules of Procedure⁵.

Moreover, 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 document references and downloadable documents in the public register grows every year. The situation of the register was the following on 31 December 2014:

- the register listed 317 154 original language documents (2 273 581 if all language versions are counted), 8 % more than at the end of 2013. 67 % of these documents were public and downloadable;
- 27 515 new original language documents were distributed in 2014, out of which 71 % (i.e. 19 561) were public and downloadable;

² Under Article 11 of the Regulation, the institutions are required to make a document register available in electronic form.

³ Article 11 of Annex II to the Council's Rules of Procedure contains a list of document types which have to be accessible to the public as soon as they have been distributed.

⁴ Partial disclosure is practised in conformity with Article 4(6) of the Regulation. "P/A" (partially available) documents registered before 1 February 2004 are not usually downloadable for technical reasons but are available on request.

⁵ This provision prescribes that, unless one or more of the provisions of Article 4 of the Regulation are applicable, all preparatory documents relating to a legislative act shall be made available to the public in full after adoption of one of the acts by the Council during an ordinary or special legislative procedure and joint texts by the Conciliation Committee under the ordinary legislative procedure or the final adoption of the act.

- the register contained 5 519 original language documents bearing the code "P/A" (i.e. partially accessible);
- around 5% of the original language documents recorded in the public register, i.e. 15 736 documents, were classified as "RESTREINT UE/EU RESTRICTED".

In 2014, 103 sensitive documents⁶ were distributed, 6 classified as "SECRET UE/EU SECRET" and 97 as "CONFIDENTIEL UE/U CONFIDENTIAL", out of which 4 "CONFIDENTIEL UE/EU CONFIDENTIAL" are mentioned in the register^{7 8}. No documents classified "TRÈS SECRET UE/EU TOP SECRET" were produced in 2014.

The Register continues to be an important research tool for citizens wishing to keep close track of the activities of the European Union. In 2014,

- 2 042 515 visits were made to the Register for a total of 30 291 126 consultations per Register page;
- 802 953 unique visitors (monthly average of 66 913) visited the Register; this is 13,5 % more than in 2013.

2. Requests for public access to Council documents

A majority of requests for public access to Council documents are made by using the electronic form in the public register. The initial requests are processed by the General Secretariat of the Council. In the event of a total or partial refusal of public access to a document at the initial stage, 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 or institute proceedings before the General Court of the European Union.

⁶ For the purposes of Regulation (EC) No 1049/2001, "sensitive documents" means documents classified as "CONFIDENTIEL", "SECRET" or "TRÈS SECRET/TOP SECRET". On this subject, see Article 9(1) of that Regulation.

⁷ In accordance with Article 9(2) and Article 11(2) of Regulation (EC) No 1049/2001.

⁸ In total, 22 documents classified "CONFIDENTIEL UE/EU CONFIDENTIAL" are mentioned in the register.

In 2014:

- the Council received 2 445 initial requests and 40 confirmatory applications for public access;
- the General Secretariat of the Council extended the time-limit for examining initial requests in 24,1% of the cases (against 26,5% of the cases in 2013);
- processing time of initial requests averaged 17 working days (against 18 days in 2013)⁹; for confirmatory applications the average time was 27 working days in 2014 (against 26 working days in 2013).

Two elements are worth noting:

- 1,6 % of the 928 individual applicants who submitted initial requests in 2014 accounted for almost 40% of the initial requests. The vast majority of the initial requests were thus submitted by a relatively small number of applicants. 699 applicants only submitted one initial request.
- The exceptionally high number of confirmatory applications received by the General Secretariat in 2014 (up by 63 % compared to the number in 2013) can be explained by the adoption of a number of restrictive measures by the Council in 2014, especially in the framework of the crisis in Ukraine; numerous initial and consequently confirmatory applications were introduced by lawyers representing individuals or entities listed in the Annexes to the legal acts imposing restrictive measures¹⁰. Confirmatory applications for public access to documents relating to restrictive measures accounted for a quarter of all confirmatory applications received by the General Secretariat in 2014. The number of confirmatory applications for public access to documents relating to "traditional" fields thus remained stable (25).

⁹ This figure comprises both the initial applications submitted according to Article 7 of Regulation (EC) No 1049/2001 and the so-called "6(3) applications".

¹⁰ See also page 8 of this report concerning the professional profiles of applicants having introduced requests for public access in 2014.

II. ANALYSIS OF REQUESTS FOR PUBLIC ACCESS

Professional profiles and geographical distribution of applicants

Initial applications came mainly from students and researchers (31,7 %). This group of applicants, which has traditionally been the largest but had to give way to applicants from the civil society in 2013, thus re-established its leading position in 2014. Civil society was nevertheless also high on the list of social and professional categories represented (28,5 %), followed by lawyers and journalists (10,3 % and 4,5 %, respectively).

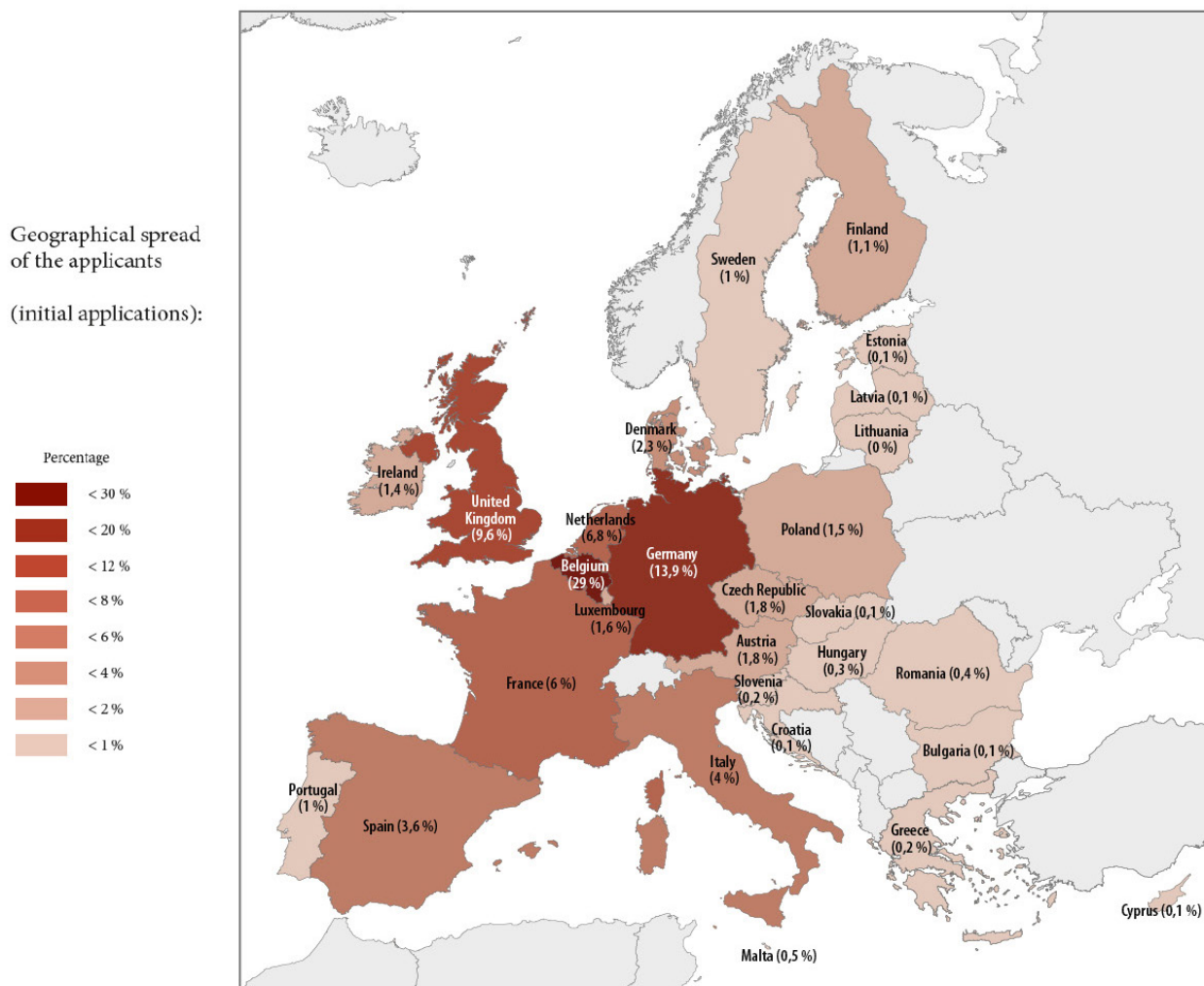
Most confirmatory applications in 2014 originated from lawyers (31 %). This can be explained by the numerous initial and consequent confirmatory applications being introduced by lawyers representing individuals or entities listed in the Annexes to the legal acts imposing restrictive measures, following the adoption by the Council of a number of such measures in 2014, especially in the framework of the crisis in Ukraine¹¹. Numbers concerning confirmatory applications from the civil society also increased in 2014 (27,7 % against 21,8 % in 2013). On the other hand, the number of confirmatory applications introduced by students and researchers decreased remarkably (24,1 % against 43,5 % in 2013).

It is worth noting that since applicants are not required to provide their identity or reasons for their requests, which are usually sent via the electronic form provided on the Council's website, the occupation of a significant proportion of the applicants (10,3 % in 2014) remains unknown.

Contrary to previous years, the months of September, October and November were the ones during which proportionally most initial requests were received: 33 % of all requests received in 2014 were received during those months. This was the case for requests introduced by each of the four largest groups of applicants.

¹¹ See also page 7 of this report concerning the number of confirmatory applications received in 2014.

As regards the geographical distribution of applicants, the majority of initial requests came from Belgium (29 %), Germany (13,9 %) and the United Kingdom (9,6 %). 27,6 % of the confirmatory applications came from Belgium and 20,7 % from the United Kingdom.



The relatively high proportion of initial and confirmatory applications originating from Belgium can be explained by the fact that several multinational companies, international law firms, as well as numerous associations representing various economic and industrial sectors at European level, have their headquarters or are active in Brussels.

Policy areas concerned by the requests for public access

In 2014:

- the interest in the area of freedom, security and justice rose remarkably (23,4 % in 2014 against 16,8% in 2013);
- the number of requests concerning external relations and the common foreign and security policy (CFSP) increased (10,6 % in 2014 against 8,1 % in 2013);
- the other most popular policy areas were environment (13,1 %), internal market (6,7 %) and health and consumer policy (6,1 %).

Out of the 657 classified documents requested, 55 % concerned the European Security and Defence Policy (ESDP) 19 % the CFSP and 14,7 % the area of freedom, security and justice.

Number of documents examined and released

As regards the number of documents examined in 2014:

- the General Secretariat examined 2 445 initial requests for public access to 10 839 documents, of which 8 964 were made available (8 188 in full and 776 in part);
- the Council examined 40 confirmatory applications for public access to 225 documents, 28 of which were released in full at the confirmatory stage. 97 documents access to which was fully refused at the initial stage were partially released. For 24 documents, partial access granted at the initial stage was confirmed and in 11 cases extended partial access was granted;
- initial and confirmatory requests combined, 657 classified documents were examined (26 classified as "CONFIDENTIEL UE" and 631 classified as "RESTREINT UE");
- initial and confirmatory requests combined, 75,5 % of the requested documents were fully disclosed (82,7 % if documents to which partial access was granted are also taken into account).

Out of the documents disclosed in full following a request for public access:

- 22,3 % concerned the area of freedom, security and justice;
- 11 % agriculture and fishing;
- 9,5 % the CFSP;
- 8,4 % internal market;
- 7,6 % the environment.

Out of the total number of documents disclosed (in full or in part):

- 22,7 % concerned the area of freedom, security and justice;
- 10,9 % the CFSP;
- 10,6 % agriculture and fishing;
- 7,9 % internal market;
- 7,2 % the environment.

III. APPLICATION OF EXCEPTIONS TO THE RIGHT OF PUBLIC ACCESS

Full refusals

Initial stage

With regard to initial requests, the grounds for refusal most frequently invoked in 2014 were as follows (% of the total number of refusals in brackets) :

- protection of the public interest with regard to international relations ¹² (25,8 %); and
- protection of the decision-making process ¹³ (21,5 %).

In 49,4 % of cases, several grounds for refusal were invoked simultaneously :

- protection of the public interest as regards public security in conjunction with the protection of the public interest as regards international relations (54 %);
- protection of the public interest as regards international relations in conjunction with the protection of the decision-making process of the institution, including negotiations on trade, enlargement, etc. (24,7 %);
- protection of the decision-making process of the institution in conjunction with the protection of the purpose of inspections, investigations and audits (10,6 %);

Confirmatory stage

For confirmatory applications, the single ground for refusal most frequently invoked in 2014 was the protection of the public interest with regard to international relations (14,6 %). In 83,8 % of the cases more than one ground for refusal were invoked. The most frequently invoked combination was the protection of the public interest as regards public security in conjunction with the protection of the public interest as regards international relations which was used in 92 % of the cases.

¹² Article 4(1)(a), third indent, of the Regulation.

¹³ Article 4(3) of Regulation 1049/2001.

Partial release

Where only parts of the requested document are covered by any of the exceptions, its remaining parts are released in conformity with Article 4(6) of the Regulation.

Initial stage

The grounds for partial refusal most frequently invoked at the initial stage in 2014 were (% of the total number of partial refusals in brackets):

- protection of the public interest with regard to international relations (24 %);
- protection of the decision-making process (23,5 %);
- protection of court proceedings and legal advice (7,4 %).

In 31,6 % of cases, several grounds for partial refusal were invoked simultaneously. The most frequently invoked combinations were:

- protection of the public interest as regards international relations in conjunction with the protection of the decision-making process of the institution (34 %);
- protection of the decision-making process in conjunction with the protection of court proceedings and legal advice (20,5 %).

Confirmatory stage

For the confirmatory applications, the grounds for partial refusal most frequently invoked in 2014 were:

- protection of the public interest with regard to international relations (72 %);
- protection of the decision-making process (2,3 %).

In 23,5 % of the cases, several grounds were invoked. The most frequently invoked combination of grounds was the protection of the public interest as regards public security in conjunction with the protection of the public interest as regards international relations (83,4 % of the cases).

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

This chapter refers to five complaints submitted to the European Ombudsman in 2012 – 2014, and mentions two own initiative inquiries concerning the Council of the European Union in the area covered by Regulation 1049/2001. In addition, it lists three cases submitted to the EU Courts concerning access to documents, including one ruling handed down by the European Court of Justice on 3 July 2014.

1. Complaints lodged with the European Ombudsman

Complaint 1649/2012/RA of 9 August 2012

This complaint concerned a Council decision to refuse access to a joint EU-Russia document setting out the Common Steps towards visa-free short term travel of Russian and EU citizens (doc. 18217/11)¹⁴, the content of which could not be made public without the prior consent of the Russian authorities. However, once this consent had been obtained, the Council immediately transmitted the joint document to the applicant and informed the Ombudsman accordingly by letter of 25 March 2013.

With his letter dated 9 September 2013, the Ombudsman closed his inquiry into this complaint, concluding that the Council had settled the matter and thereby satisfied the complainant. He nevertheless suggested that the Council inform its negotiation partners, of its obligation to conduct its work as openly as possible at the outset of future international negotiations. He also suggested that the Council consider taking steps towards EU participation in the Open Government Partnership (OGP). The Ombudsman finally invited the Council to inform him by 31 March 2014 on any action taken in relation to the findings.

¹⁴ See the 2012 Council annual report on public access to documents, page 15, and the 2013 Council annual report on public access to documents, page 17.

In its reply to the Ombudsman of 25 March 2014, the Council pointed out that it has to examine any request for public access to documents on a case by case basis in full compliance with Regulation (EC) 1049/2001. This implies, as it had been the case during the negotiations with Russia, that the Council has an obligation to take into account, *inter alia*, the state of play of the overall negotiation process with the third country concerned.

The Council also noted that third countries are not subject to Regulation 1049/2001 and that the Council - even if it raises the issue of transparency at the beginning of international negotiations - still has an obligation to consult the negotiating partner on any request for public access to documents of the latter or to joint documents as a matter of confidence and trust in the framework of international relations.

As regards the Open Government Partnership (OGP), the Council pointed out that this initiative is essentially an international platform joined by certain EU Member States and civil society organisations, and did not exclude the possibility of the external action of the European Union to be completed, as suggested by the Ombudsman, through initiatives taken by EU Member States in international fora of which the EU is not a member or does not participate.

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 countries ¹⁵. However, following the Council's decision to grant extended partial access to the requested documents, the Ombudsman decided to close her inquiry into this complaint on 9 January 2014, concluding that the Council had settled the matter to the complainant's satisfaction.

¹⁵ See the 2012 Council annual report on public access to documents, page 16, and the 2013 Council annual report on public access to documents, pages 17 and 18.

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"¹⁶. In response to the Council's observations on this complaint, sent on 29 April 2013 and following inspection of the requested document, the Ombudsman closed her inquiry into this complaint on 17 January 2014 with the following critical remark: "*By failing to justify why it cannot grant full access to the requested document, the Council has committed an instance of maladministration.*" The Ombudsman also requested the Council to inform her by 30 June 2014 about any action taken in relation to her findings.

In its reply to the Ombudsman of 23 June 2014, the Council noted that it understood the critical remark to concern failure to state sufficient reasons in support of the refusal to grant full access to the document in question, rather than the applicability of the invoked exceptions as such. The Council assured that it was fully aware of its obligation under case-law to provide a detailed statement of reasons for any refusal to grant public access to a document¹⁷. It indicated, moreover, that it sees such statement of reasons as an important means of explaining the applicant how it reached its conclusion.

¹⁶ 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, and the 2013 Council annual report on public access to documents, page 18.

¹⁷ See for example Joined cases C-39/05 P and 52/05 P, *Sweden and Turco vs Council* [2008] ECR I-4723, paragraph 69.

The Council underlined, however, that it cannot be required to provide *evidence* that a protected interest would be undermined in case of disclosure as implied by the Ombudsman's decision. The Council is required under case-law to demonstrate that there is a reasonably foreseeable and not purely hypothetical risk that the specific interest concerned would be undermined if a particular document were to be disclosed. To require the Council to provide "evidence" of a risk would be tantamount to requiring it to provide proof of something that has not yet materialised. In the same vein, the Council cannot be obliged to wait for Court proceedings to begin before relying on the protection of legal advice in respect of a legal opinion concerning the matter under litigation. The Council also pointed to the fact that it cannot be obliged to provide such a level of detail in its reasoning that it would have to reveal the very content which it is necessary to protect¹⁸. It considered this not to be without relevance, as in cases of such political sensitivity as the one concerned by the complaint, the need to protect the content of the document reduces the scope for providing very detailed reasoning.

Against that background, the Council considered that sufficient reasons were given to enable the complainant to understand why the Council was not in a position to fully disclose the document in question. Furthermore, those arguments were so as to demonstrate a reasonably foreseeable and not purely hypothetical risk that the interests protected by the invoked exceptions would be undermined if the document in question were to be disclosed. The Council thus indicated that it found it difficult to see that the case represents an instance of maladministration.

In its reply, the Council finally informed the Ombudsman that on 17 January 2014, the complainant had submitted a new request for access to document 5788/12 by reference to the Ombudsman's findings and that on 13 February 2014, the Council refused full public access to the document, with the exception of point 2 entitled "a special agreement".

¹⁸ Case C-266/05 P, *Sison v. Council*, [2007] ECR I-1233, point 82, Case T-105/95, *WWF UK v. Commission*, [1997] ECR II-313, point 65 (by analogy).

Complaint 689/2014/BEH of 11 April 2014

This complaint was lodged against the Council for having failed to properly handle a request for public access to all documents relating to a RELEX/Sanctions meeting which took place on 13 June 2007. By letter of 12 May 2014, the Ombudsman invited the Council to submit an opinion on the above allegation and claim by 31 July 2013. By letter of 28 July 2014, the General Secretariat of the Council informed the Ombudsman, that due to time constraints, the Council would send its reply by 5 September 2014. In her letter, the European Ombudsman also requested the inspection of the documents concerned by the complaint, pursuant to Article 3(2) of the Ombudsman's Statute. This inspection took place at the Council's premises on 12 August 2014.

In its reply to the Ombudsman of 5 September 2014, the Council assured that it had had no intention of hiding the existence of any documents relating to the RELEX/Sanctions meeting held on 13 June 2007 at which certain measures in relation to the restrictive measures against Iran were discussed. The Council explained that, taken into account that the complainant had brought legal proceedings against the Council in 2011 challenging its designation under those restrictive measures and in 2013 introduced a request for privileged access to documents concerning its designation, in view of the legal proceedings referred to above, the Council had examined the complainant's initial and subsequent confirmatory request for public access to documents relating to the above-mentioned meeting on the assumption that the complainant was specifically interested in those documents which were of relevance to its designation. The Council therefore admitted that it had lost sight of the fact that the scope of the request for public access was in fact broader and not limited to documents relating specifically to the complainant's designation.

The Council however underlined that following the examination of the complainant's request for privileged access, the Council had proactively proceeded to a re-examination of the request for public access. Following this re-examination, on 9 July 2014, the Council had sent an additional reply to the request for public access covering the documents not previously identified.

This case was still pending by 31 December 2014.

Own-initiative inquiry (OI/6/2013/KM) concerning the European Parliament, the Council of the European Union and the European Commission

On 11 December 2013, a letter was sent by the Ombudsman to the Council informing it about the opening of an own-initiative inquiry OI/6/2013/KM concerning the European Parliament, the Council of the European Union and the European Commission.

In this letter, the Ombudsman referred to the own-initiative inquiry 3/2011/KM concerning the time limits for processing confirmatory applications for access to Council documents, launched by her predecessor, Mr Diamandouros, in 2011. In his Decision closing this own-initiative inquiry, the previous Ombudsman had stated his intention to open a new own-initiative inquiry with a view to assessing the practical effects of the measures which the Council had envisaged and listed in its reply to the inquiry.

The Ombudsman also mentioned in her letter that it had come to her attention, through the complaints handled by her office and from the case-law of the Court, that the three institutions of the EU most concerned by the application of Regulation 1049/2001, i.e. the European Parliament, the Council and the Commission "*may encounter problems of a systemic kind in respecting the time limits provided for in the Regulation.*" She therefore decided to open a new own-initiative inquiry in order to examine whether such problems exist and, if so, how they might best be tackled.

As a first step, the Ombudsman asked the Council to provide her with information on matters relating to the handling of initial applications, confirmatory applications and fair solutions in accordance with Article 6(3) of Regulation 1049/2001 during 2010, 2011 and 2012. The Council sent its reply to the Ombudsman on 12 March 2014.

By 31 December 2014, the Council had not yet received any reply from the Ombudsman relating to this own-initiative inquiry.

Own-initiative inquiry (OI/11/2014/MMN) concerning the Council of the European Union

On 29 July 2014, the Ombudsman sent a letter to the Council informing it about the opening of her own-initiative inquiry OI/11/2014/MMN concerning transparency and public participation in the Transatlantic Trade and Investment Partnership ('TTIP') negotiations.

In her letter, the Ombudsman expressed her view that a high level of transparency of the aims and objectives of the European Union in the TTIP negotiations constitutes a precondition for a successful outcome of the negotiations. In this context, she pointed out that the negotiating directives on the basis on which the European Commission had been asked, on behalf of the Union, to negotiate the TTIP agreement had not been published by the Council. Reflecting on the assumed consequences that the disclosure of the TTIP negotiating directives would have on the on-going negotiations, the Ombudsman concluded that it was not immediately apparent how their disclosure would undermine the protection of any public or private interest provided for in Article 4 of Regulation 1049/2001. The Council was invited to give the Council's opinion on the matter by 30 September 2014.

In its reply dated 30 September 2014, the Council noted that no complaint had so far been submitted to the Ombudsman concerning any alleged maladministration relating to the handling of requests for public access to the TTIP negotiating directives by the Council, nor had the Ombudsman identified any Council's conduct that could amount to such an instance of maladministration. The Council stressed that even if Regulation 1049/2001 provides for a number of obligations concerning the way EU Institutions have to deal with requests for public access, there is no obligation in the Regulation requiring the institutions to make public non-legislative documents such as negotiation directives, in a preventive way. In particular, according to the Council, such an obligation cannot be inferred from Article 12 of the Regulation, which clearly limits the scope of direct access to non-legislative documents. Moreover, the Council had complied with Article 12 by entering in its public registry the reference of the document at issue.

In its letter, the Council also stressed that it fully recognises the importance of a high level of transparency of the aims and objectives of the European Union in the TTIP negotiations and underlined that Member States agree on the paramount importance of communication and outreach activities to optimise the provision of information to the general public. It referred to the fact that the Italian Presidency had already started consultations with the Member States on whether the TTIP negotiating directives could be disclosed to the public and that those consultations were ongoing.

Indeed, following the above-mentioned initiative by the Italian Presidency, the Council decided to publish the TTIP negotiating directives on 9 October 2014. Whilst taking this decision, the Council nevertheless stressed that this publication did not constitute a precedent for other negotiating directives and underlined that the decision would not affect the Council's deliberations on future recommendations to open negotiations, including negotiating directives.

Following the Council's decision to publish the negotiating directives, the Ombudsman welcomed the Council's initiative and closed her own initiative inquiry on 31 October 2014.

2. Court cases

On 3 July 2014, the Court of Justice handed down its ruling in appeal case C-350/12 P (Council v Sophie In 't Veld) brought by the Council against a judgment of the General Court of 4 May 2012¹⁹. The matter concerned the Council's refusal to provide full public access to document 11897/09 under Regulation 1049/2001. Document 11897/09 contains an opinion of the Council's Legal Service on the Recommendation from the Commission to the Council to authorise the opening of negotiations between the European Union and the United States of America for an international agreement to make available to the United States Treasury Department financial messaging data to prevent and combat terrorism and terrorist financing ("the SWIFT agreement"). Large parts of the legal advice in the document concerned the question of the legal basis of the SWIFT agreement.

The General Court had partially annulled the Council's decision refusing full access to document 11897/09, considering that the Council could only refuse access to those parts of the requested document which referred to the specific content of the envisaged agreement and the negotiating directives.

Given the implications of this ruling for the Council's work, notably in respect of the protection of legal advice concerning the choice of legal basis for the conclusion of international agreements, the Council decided to appeal the judgment of the General Court before the Court of Justice.

¹⁹ Case C-350/12 P 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.

In its appeal, the Council argued that the General Court had erred in considering that a disagreement as to the choice of the legal basis of the EU act regarding the conclusion of an international agreement is not capable of undermining the Union's interest in the field of international relations. It also considered that the General Court had erred in applying in the case at hand the case law developed by the Court of Justice in relation to legal opinions issued in the context of a legislative procedure (*Sweden and Turco v Council*, C-39/05 P and C-52/05 P, judgment of 1 July 2008, Report of cases I-04723) and therefore argued that legal advice concerning international negotiations should benefit from a general presumption against disclosure such as recognised in some other fields.

The Court of Justice examined the two exceptions invoked by the Council, (i.e. the protection of international relations and of legal advice) and whether the General Court had rightfully concluded that Council had failed to demonstrate the existence of a specific and actual harm to the protected interests covered by those exceptions. The Court of Justice confirmed the General Court's findings by rejecting the argumentation of the Council that revealing the existence of differences between the institutions on the legal basis (and hence on the internal procedures to be followed) has, as such, a potential incidence on the Union's credibility vis-à-vis the United States. However, the Court of Justice did not rule out that a disagreement between the institutions as to the question of the appropriate legal basis might undermine a protected interest under Regulation 1049/2001.

Moreover, with regard to the exception relating to the protection of legal advice in Article 4(2), second indent, of Regulation 1049/2001, the Court of Justice held that the assessment in three steps provided for in the *Turco* judgment also applies in respect of documents drawn up in a non-legislative context and therefore rejected the argument that a general presumption against disclosure could apply in that domain. However, it did not expand the application of other parts of that judgment. In particular, it did not apply the presumption in the *Turco* judgment in favour of disclosure of legal opinions drawn up in the context of legislative activities to also cover legal advice in a non-legislative context.

On 17 February 2015, the Council adopted a revised reply to the original confirmatory application in order to comply with the Court's judgment. In light of the entry into force of the SWIFT agreement and despite the fact that the EU judicature had partially confirmed the Council's decision to refuse access, the Council decided to grant full access to the requested document.

New court cases brought against the Council for the annulment of its decisions refusing public access to documents

By an application registered with the General Court on 12 September 2014, Mr Ivan Jurašinić brought an action before the General Court²⁰ for the annulment of the Council's decision of 8 July 2014, to refuse full public access to the correspondence exchanged between the European Union institutions and the International Criminal Tribunal for the Former Yugoslavia (ICTY) in the context of the "Prosecutor v. Gotovina et al." case (IT-06-90-T) before the ICTY. The Council's decision had been adopted to comply with the General Court's judgment of 3 October 2013 in case T-63/10, *Ivan Jurašinić v Council*, which had annulled a former decision not to disclose the requested documents. The case is currently pending before the General Court.

By an application registered with the General Court on 7 October 2014, Herbert Smith Freehills LLP brought an action before the General Court for the annulment of the Council's decision 23 July 2014, to refuse public access to certain e-mails sent by an official of the Council Legal Service during the trilogue negotiations leading to the adoption of Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products.²¹ The case is currently pending before the General Court.

²⁰ Case T-658/14 (*Ivan Jurašinić v Council*).

²¹ OJ L 127, 29.4.2014, p. 1–38.

Actions for annulment pending before the General Court

One case challenging the legality of the Council's decision to refuse full public access pursuant to Regulation (EC) No 1049/2001 is currently pending before General Court ²².

²² Case T-395/13 (Samuli Miettinen v Council); see the 2013 Council annual report on public access to documents, page 19.

VI. FINAL REMARKS

The Council's experience in implementing Regulation (EC) No 1049/2001 in 2014 highlights the importance of its public register as a search tool for members of the public seeking to exercise their right to access to documents; the number of unique visitors to the public register went up by 13,5 %. The number of documents made accessible to the public via the register either directly or following requests for public access is also growing constantly. Despite these factors, there was a remarkable increase in the number of requests over the reference period (up by 10 %).

Like in previous years, the vast majority of applicants in 2014 belonged to very specific groups, who in one way or another are specialised in European affairs: civil society organisations, think tanks and the academic environment. They very often act as information multipliers, not only within their own organisation but also communicating their findings and observations in the form of specialised publications, reports and also via the media in general and thereby reach out to a relatively large segment of the general public.

Unlike in 2013, the number of requests for access to documents relating to the Council's traditional legislative activities, like the internal market, decreased slightly. Nevertheless, a growing awareness and interest in the Council's legislative activities in new areas, like in the area of freedom, security and justice, can be observed. This partly explains the remarkable increase in the interest in documents relating to this particular area.

The thorough examination of initial requests has in recent years led to a significant decrease in the number of confirmatory applications. 2014 was exceptional in this respect: the General Secretariat received 40 confirmatory applications, corresponding to 1,6 % of the total number of initial requests (against roughly 1 % in previous years). A quarter of these applications concerned access to documents relating to restrictive measures. Thus, whereas in the past no clear link could be established between requests and debates on political issues or political events, the adoption by the Council of various restrictive measures in 2014 did seem to have a clear effect on the number of requests for public access.

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 2014.

STATISTICS ON PUBLIC ACCESS TO COUNCIL DOCUMENTS
Situation on 31/12/2014

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

2010	2011	2012	2013	2014
2.764	2.116	1.871	2.212	2.445

2. Number of documents requested by initial applications

2010	2011	2012	2013	2014
9.188	9.641	6.166	7.564	10.839

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

2010	2011	2012	2013	2014
7.847	8.506	4.858	5.951	8.964
partially/entirely 1.369 6.478	partially/entirely 1.103 7.403	partially/entirely 998 3.860	partially/entirely 867 5.084	partially/entirely 776 8.188

4. Number of confirmatory applications

2010	2011	2012	2013	2014
28	27	23	25	40

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

2010	2011	2012	2013	2014
181	59	78	77	225
118 partially/entirely 80 38	41 partially/entirely 15 26	27 partially/entirely 17 10	33 partially/entirely 29 4	159 partially/entirely 132 28

6. Rate of document released for the procedure as a whole ²³

2010		2011		2012		2013		2014	
70,9%	86,7%	77%	88,6%	64,9%	81,2%	67,6%	79,5%	75,9%	84,2%

7. Number of documents referred to in the public register + number of public/downloadable documents

2010		2011		2012		2013		2014	
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%)	2.273.581	1.760.045 (77,4%)

²³ Based on documents released entirely (left column) or entirely + partially (right column).

8. Professional profile of the applicants (initial applications)

		2010		2011		2012		2013		2014	
Civil society	Consultants	27,9%		25,8%		27,2%		7%	29,4%	7,3%	28,5%
	Environmental Lobbies							0,1%		0,1%	
	Other groups of interests							6,2%		6,7%	
	Industrial/ Commercial Sector							10,4%		9,4%	
	NGOs							5,7%		5%	
Journalists		2,6%		3,3%		2,8%		1,8%		4,5%	
Lawyers		10,1%		10%		9,8%		10%		10,3%	
Academic world	University Research	32,5%	33,7%	35,7%	37,6%	32,2%	33,4%	27,9%	29,2%	30,5%	31,7%
	Library	1,2%		1,8%		1,2%		1,2%		1,2%	
Public authorities (non-EU institutions, third-country representatives, etc.)		5,6%		5,4%		4,0%		4,4%		3,8%	
Members of the European Parliament and their assistants		1,1%		0,9%		1%		0,6%		0,4%	
Others		9,4%		5,3%		6,6%		5,8%		6%	
Undeclared professional origin		13,3%		13,5%		16,5%		18,8%		14,8%	

9. Professional profile of the applicants (confirmatory applications)

		2010		2011		2012		2013		2014	
Civil society	Consultants	27%		19,3%		28,5%		4,4%	21,8%	3,5%	27,7%
	Environmental Lobbies							0%		0%	
	Other groups of interests							4,4%		3,5%	
	Industrial/ Commercial Sector							0%		6,9%	
	NGOs							13%		13,8%	
Journalists		7,7%		11,5%		9,5%		0%		3,5%	
Lawyers		11,5%		15,4%		14,3%		13%		31%	
Academic world	University Research	42,3%	42,3%	34,6%	34,6%	23,8%	23,8%	43,5%	43,5%	24,1%	24,1%
	Library	0%		0%		0%		0%		0%	
Public authorities (non-EU institutions, third-country representatives, etc.)		0%		0%		0%		0%		3,4%	
Members of the European Parliament and their assistants		0%		3,8%		4,8%		0%		0%	
Others		3,8%		7,7%		4,8%		4,3%		0%	
Undeclared professional origin		7,7%		7,7%		14,3%		17,4%		10,3%	

10. Geographical spread of the applicants (initial applications)

	2010	2011	2012	2013	2014	
Belgium	29,3%	30,5%	33%	28%	29%	
Bulgaria	0,2%	0,4%	0,1%	0,6%	0,1%	
Croatia	0,1%	0,5%	0,2%	0,2%	0,1%	
Czech Republic	1,1%	1%	0,7%	0,8%	1,8%	
Denmark	1,6%	1%	0,6%	2,1%	2,3%	
Germany	13,9%	14,5%	14,6%	18,5%	13,9%	
Estonia	0,1%	0%	0%	0,2%	0,1%	
Greece	0,8%	0,7%	0,5%	1%	0,2%	
Spain	5,5%	3,5%	3,3%	3,3%	3,6%	
France	7,5%	7,7%	7,3%	5,7%	6%	
Ireland	0,4%	0,7%	1,1%	0,9%	1,4%	
Italy	5,4%	6,3%	5,6%	4,6%	4%	
Cyprus	0%	0,2%	0,1%	0,2%	0,1%	
Latvia	0,1%	0,2%	0,1%	0,2%	0,1%	
Lithuania	0,3%	0,1%	0%	0,5%	0%	
Luxembourg	1,3%	1,3%	1,2%	1,8%	1,6%	
Hungary	0,7%	0,8%	0,2%	0,5%	0,3%	
Malta	0,4%	0,2%	0,2%	0,1%	0,5%	
Netherlands	4,8%	7,6%	5,8%	5%	6,8%	
Austria	2,1%	1,9%	1,9%	2%	1,8%	
Poland	2,4%	1,6%	2,3%	1,7%	1,5%	
Portugal	1,2%	0,9%	0,7%	0,4%	1%	
Romania	1%	0,2%	0,2%	0%	0,4%	
Slovenia	0,3%	0,2%	0,1%	0,2%	0,2%	
Slovakia	0,7%	0,3%	0,5%	0,1%	0,1%	
Finland	0,5%	0,4%	0,6%	1%	1,1%	
Sweden	2%	1,3%	1,3%	1,2%	1%	
United Kingdom	9%	9,2%	11,5%	10,2%	9,6%	
Third countries	Candidate countries	0,2%	0%	0%	0%	0,2%
	Others	6,5%	5,9%	4,2%	3,5%	4,1%
Non specified	0,6%	0,9%	2,2%	5,5%	7,1%	

11. Geographical spread of the applicants (confirmatory applications)

	2010	2011	2012	2013	2014	
Belgium	28%	23,1%	38,1%	26,1%	27,6%	
Bulgaria	0%	0%	0%	0%	0%	
Croatia	0%	0%	0%	4,3%	3,4%	
Czech Republic	4%	0%	0%	0%	0%	
Denmark	0%	3,9%	0%	0%	3,5%	
Germany	20%	19,2%	19%	21,7%	6,9%	
Estonia	0%	0%	0%	0%	0%	
Greece	0%	0%	0%	0%	0%	
Spain	4%	3,8%	0%	0%	0%	
France	4%	7,7%	9,5%	4,4%	6,9%	
Ireland	0%	0%	0%	0%	3,5%	
Italy	4%	7,7%	0%	4,4%	3,4%	
Cyprus	0%	0%	0%	0%	0%	
Latvia	0%	0%	0%	0%	0%	
Lithuania	0%	0%	0%	0%	0%	
Luxembourg	0%	0%	0%	0%	0%	
Hungary	0%	0%	0%	0%	0%	
Malta	0%	0%	0%	0%	0%	
Netherlands	4%	7,7%	4,8%	8,7%	6,9%	
Austria	0%	0%	0%	0%	6,9%	
Poland	4%	0%	0%	4,3%	0%	
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%	4,4%	6,9%	
Sweden	8%	0%	0%	0%	0%	
United Kingdom	16%	23,1%	14,3%	4,4%	20,7%	
Third countries	Candidate countries	4%	0%	0%	0%	0%
	Others	0%	3,8%	0%	4,3%	0%
Non specified	0%	0%	14,3%	13%	3,4%	

12. Sector

	2010	2011	2012	2013	2014
Agriculture, Fisheries	3,9%	3,5%	5%	3%	4,9%
Internal Market	7,9%	8%	9,7%	11,7%	6,7%
Research	0,5%	0,4%	1%	2,1%	1,1%
Culture	0,2%	0,2%	0,7%	0,5%	0,4%
Education/Youth	1,1%	0,4%	0,2%	0,6%	0,5%
Industry	0,1%	0,1%	0%	0,4%	0,3%
Competitiveness	1,5%	1,4%	1,6%	1,1%	1,1%
Energy	0,9%	2,1%	2,7%	2%	1,3%
Transport	2,5%	1,5%	1,4%	2,6%	3,9%
Environment	10,7%	9,1%	7,6%	12,6%	13,1%
Health and Consumer Protection	5,6%	3,6%	3,5%	4,5%	6,1%
Economic and Monetary Policy	4,4%	5,9%	6,9%	8,7%	4%
Tax Questions – Fiscal Issues	7,5%	12,5%	6,7%	3,7%	4,2%
External Relations – CFSP	14,4%	12,8%	10,7%	8,1%	10,6%
Civilian Protection	0,1%	0%	0,6%	0,8%	0,6%
Enlargement	0,8%	1%	1,2%	0,4%	0,4%
Defence and Military matters	4%	2,2%	2,7%	2,5%	0,8%
Assistance for Development	0,2%	0,1%	0%	0,4%	0,1%
Regional Policy and Economical/Social Cohesion	0%	0,1%	0,4%	0,1%	0,3%
Social Policy	4%	2,7%	3,9%	5,2%	5,1%
Justice and Home Affairs	14%	19,5%	18,1%	16,8%	23,4%
Legal questions	2,6%	3,1%	5,4%	5,1%	3,6%
Functioning of the institutions	2,1%	2,4%	2,4%	2,8%	2,8%
Financing of the Union (Budget, Statute)	0,1%	0,2%	0,8%	0,4%	0,2%
Transparency	0,3%	0,3%	1,2%	0,5%	0,5%
General policy questions	1%	0,6%	0,7%	1,1%	1,8%
Parliamentary Questions	5,3%	3%	2,5%	0,7%	0,5%
Various	0,6%	0,2%	0,2%	0,1%	0,2%

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

	2010		2011		2012		2013		2014	
	#	%	#	%	#	%	#	%	#	%
Protection of public interest as regards public security	92	7%	93	8,9%	64	5,8%	58	3,8%	35	2%
Protection of public interest as regards defence and military matters	25	1,9%	15	1,4%	18	1,6%	9	0,6%	3	0,2%
Protection of public interest as regards international relations	319	24,2%	221	21,2%	226	20,5%	375	24,7%	455	25,8%
Protection of public interest as regards the financial, monetary or economic policy of the Community or a Member State	6	0,5%	11	1,1%	0	0%	4	0,3%	0	0%
Protection of privacy and the integrity of the individual (protection of personal data)	5	0,4%	2	0,2%	2	0,2%	2	0,1%	3	0,2%
Protection of commercial interests of a natural or legal person, including intellectual property	0	0%	0	0%	0	0%	1	0,1%	1	0%
Protection of court proceedings and legal advice	11	0,8%	10	1%	7	0,6%	7	0,5%	13	0,7%
Protection of the purpose of inspections, investigations and audits	4	0,3%	0	0%	0	0%	0	0%	0	0%
Protection of the Institution's decision-making process	436	33,1%	426	40,9%	455	41,3%	556	36,7%	379	21,5%
Several reasons together or other reasons	417	31,7%	264	25,3%	330	30%	503	33,2%	871	49,4%
Document not held by the Council/Other author	1	0,1%	0	0%	0	0%	0	0%	4	0,2%

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

	2010		2011		2012		2013		2014	
	#	%	#	%	#	%	#	%	#	%
Protection of public interest as regards public security	24	38,1%	3	15,8%	0	0%	0	0%	1	0,4%
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	35	55,5%	15	78,9%	2	3,9%	20	69%	35	14,6%
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%	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%	1	2%	0	0%	3	1,2%
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	1	1,6%	0	0%	1	2%	1	3,4%	0	0%
Several reasons together or other reasons	3	4,8%	1	5,3%	47	92,1%	8	27,6%	201	83,8%
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)

	2010		2011		2012		2013		2014	
	#	%	#	%	#	%	#	%	#	%
Protection of public interest as regards public security	56	4,1%	49	4,4%	44	4,8%	28	3,2%	35	4,6%
Protection of public interest as regards defence and military matters	4	0,3%	1	0,1%	2	0,2%	5	0,6%	2	0,3%
Protection of public interest as regards international relations	164	12%	323	29,3%	174	18,8%	57	6,6%	184	24%
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%	1	0,1%	0	0%
Protection of privacy and the integrity of the individual (protection of personal data)	57	4,2%	35	3,2%	125	13,5%	46	5,3%	64	8,3%
Protection of commercial interests of a natural or legal person, including intellectual property	0	0%	0	0%	0	0%	0	0%	2	0,3%
Protection of court proceedings and legal advice	111	8,1%	58	5,2%	18	1,9%	32	3,7%	57	7,4%
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	707	51,6%	422	38,3%	334	36,1%	525	60,5%	180	23,5%
Several reasons together or other reasons	270	19,7%	215	19,5%	228	24,7%	173	20%	242	31,6%
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)

	2010		2011		2012		2013		2014	
	#	%	#	%	#	%	#	%	#	%
Protection of public interest as regards public security	0	0%	1	6,7%	3	13%	1	3,5%	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	21	26,2%	6	40%	2	8,7%	0	0%	95	72%
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%	1	3,5%	0	0%
Protection of privacy and the integrity of the individual (protection of personal data)	1	1,3%	0	0%	1	4,4%	1	3,4%	2	1,5%
Protection of commercial interests of a natural or legal person, including intellectual property	0	0%	0	0%	0	0%	0	0%	1	0,7%
Protection of court proceedings and legal advice	0	0%	1	6,7%	1	4,4%	5	17,2%	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	12	15%	2	13,3%	1	4,3%	15	51,7%	3	2,3%
Several reasons together or other reasons	46	57,5%	5	33,3%	9	65,2%	6	20,7%	31	23,5%
Document not held by the Council/other author	0	0%	0	0%	0	0%	0	0%	0	0%

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

	2010	2011	2012	2013	2014
For the initial applications ²⁴	17 (2764 closed appl.)	16 (2116 closed appl.)	16 (1871 closed appl.)	18 (2212 closed appl.)	17 (2443 closed appl.)
For the confirmatory applications ²⁵	28 (28 closed appl.)	29 (27 closed appl.)	28 (23 closed appl.)	26 (25 closed appl.)	27 (40 closed appl.)
Ponderated average (initial + confirmatory)	17,11	16,16	16,15	18,09	17,16
Ombudsman	50	32	64	0	57,5

18. Number of applications with prolonged deadline in conformity with Art. 7(3) and 8(2) of Regulation (EC) No 1049/2001

	2010	2011	2012	2013	2014
Initial applications	773 of 2764, being 28% of the applications	513 of 2116, being 24,2% of the applications	452 of 1871, being 24,2% of the applications	587 of 2212, being 26,5% of the applications	589 of 2445, being 24,1% of the applications
Confirmatory applications	25 [of 28]	24 [of 27]	20 [of 23]	21 [of 25]	39 [of 40]

²⁴ 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".

²⁵ 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.