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Subject : Eleventh 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 meeting on 25 April 2013.

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

**ELEVENTH 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**

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INTRODUCTION

The present annual report on public access to Council documents shows how the requests for access to documents have evolved and highlights key developments as regards the implementation of the Regulation by the Council in 2012. The report also reviews complaints submitted to the European Ombudsman as well as rulings given by the EU Courts in 2012 under Regulation (EC) No 1049/2001 in cases relating to access to Council documents.

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

Additional measures towards even further transparency can be expected in the near future. The Council's website is currently undergoing a general overhaul in order to facilitate access to factual information and documents about the Council's work. Moreover, a database of voting records on legislative acts will become accessible online in 2013, and the Council cooperates with transparency stakeholders through more consistent contacts and a more proactive approach.

I. TRANSPARENCY POLICY AND PRACTICE – AN OVERVIEW

Since the entry into force of the Lisbon Treaty in December 2009, the provisions on access to documents and access to the decision-making process of the Council have been incorporated into the same Article, i.e. Article 15 of the Treaty on the Functioning of the European Union (TFEU).

The link between the provisions on access to the proceedings of the Council and public access to the documents of the institution is set out in figure 1:

TRANSPARENCY AND ACCESS TO DOCUMENTS

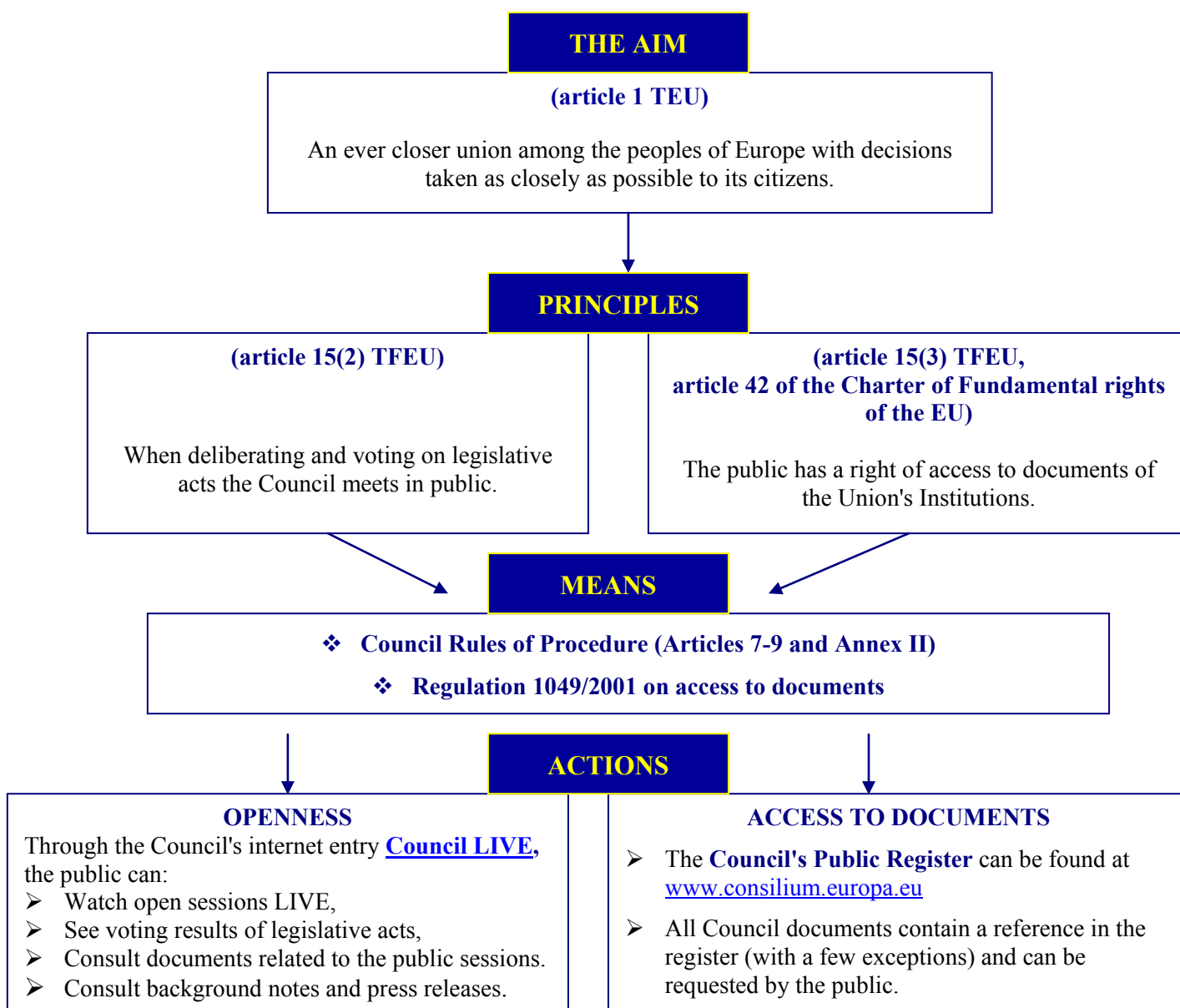


Figure 1: Overview of the relevant treaty provisions and secondary EU law on transparency and access to documents and of the implementing measures.

Openness of legislative deliberations

The Council held 240 debates on legislative items in public and adopted 139 legislative files (= "A" items) during public Council sessions¹.

Public deliberations and votes on non-legislative measures and public debates

The Council held 30 public debates on issues affecting the EU and its citizens. This included the debate on the 18 month programme of the General Affairs Council, as well as the priorities of the other Council's configurations. During the same period, the Council held 9 initial deliberations on important non-legislative proposals in public.²

Webcasts and other information available on the Council's website

In addition to the documents mentioned above, the following information relating to the Council's work is also available on the Council's website:

- Webcasts of public Council sessions and press conferences, which can be accessed at any time.
- The outcome of the voting on legislative acts.
- The webcast recordings also provide additional information about speakers and votes.
- Background notes and press releases on the issues dealt with by the Council.

¹ All documents submitted to the Council under an item marked as "public deliberations" or "public debates" are made available to the general public via the Council's website (cf. Annex II, Article 11(5) of the CRP).

² When adopting the important non-legislative proposals referred to in Article 8(1) of the CPR, the voting results, explanation of votes and statements are public (Article 9(1)). The Council may also decide to make public the voting results of any other non-legislative act. In the case of Title V TEU, this decision shall be taken unanimously (Article 9(2)).

Other background documents relating to the Council's meetings at ministerial level available on the Council's website under the heading documents/legislative transparency

- Meeting agendas,
- Minutes
- Outcome of votes
- Monthly Summary of Council Acts

Wider access to legislative documents

In addition to the measures aiming to ensure access to the Council's proceedings at ministerial level, full access is granted ³ to all preparatory documents relating to a legislative act upon final adoption of the legislative act.

Furthermore, the Council systematically examines the possibility of granting partial access to the requested documents ⁴. This practice ensures greater transparency, particularly in the legislative field.

In general, the Council grants access to the content of preparatory documents relating to legislative acts when they are still the subject of discussion at working group level, excluding only references to the delegations. This enables the public follow the progress of discussions in the preparatory bodies of the Council, while still catering for the need to protect the decision-making process of the institution.

³ See Article 11(6) of Annex II of the Council's Rules of Procedure.

⁴ Partial access is provided pursuant to Article 4(6) of Regulation No 1049/2001.

Access to the documents of the European Council

The European Council is assisted by the General Secretariat of the Council (GSC) ⁵. Initial requests for public access to the documents of the European Council are therefore dealt with by the General Secretariat.

Furthermore, documents relating to the activities of the European Council, including its conclusions and the draft minutes of its meetings, are 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. In 2012, 88,0%, of all such documents were accessible to the public, whereas the remaining 12,0% (notably draft minutes) are generally released upon request from members of the public.

⁵ Refer to Article 235(4) of the Treaty on the Functioning of the European Union.

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

1. Public Register of Council documents

The Public Register of Council documents contains references to all official Council documents. All 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 accessed via the register in a downloadable format.

The Council's public register is constantly updated via an automatic archiving system. In 2012, 24.511 new original language documents were recorded in the register ⁶ ⁷. On 31 December 2012, a total of 267.619 original language documents were listed in the public register. 176.094 (65,8%) of these documents were public and available for download. 13.817, or around 5,0% of the documents recorded in the public register were classified "RESTREINT UE/EU RESTRICTED". 1.390 of the documents were classified "CONFIDENTIEL UE/EU CONFIDENTIAL" and 9 "SECRET UE/EU SECRET".

A monthly average of 62.500 people visited the public register, with a yearly total of 750.316 different users logging on to the register. This is an increase of approximately 35,0% compared to the number of visitors to the public register during 2011.

⁶ This figure is 4,3 % less than in 2011 but 5 % more than in 2010.

⁷ Note that these numbers differ from previous reports, as this year, for the first time, numbers for *original language documents* are provided only. In the reports for the previous years, the figures included all linguistic versions of the documents recorded in the register.

1.1 Documents relating to draft legislative acts in the Council's Public Register

Documents relating to items discussed in public Council sessions are accessible and downloadable in the public register. Also, the full contents of numerous preparatory documents relating to the legislative activities of the Council are made available to the public upon circulation. In 2012, almost 40,0% of the total number of documents relating to draft legislative acts produced by the Council were issued as public documents, and were thus immediately accessible via the register. The remaining documents were or will be made entirely public in the public register upon final adoption of the legislative act ⁸. There is hence less need for citizens to lodge requests for access to documents relating to legislative files.

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 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.

In 2012 the Council received 1.871 initial requests⁹ from 847 individual applicants¹⁰ for access to a total of 6.166 documents (including 544 classified documents, of which 18 were classified "EU CONFIDENTIAL" and 526 classified "EU RESTRICTED"). In addition, the Council received 23 confirmatory requests for access to 78 previously refused documents.

Annex I to this report provides detailed statistics on public access to Council documents for the last five years (2008-2012).

⁸ See Article 11(6) of Annex II to the Council's Rules of Procedure .

⁹ The Council Secretariat thus received 11,5% fewer requests than in 2011.

¹⁰ It is apparent that the vast majority of requests were introduced by a relatively small number of applicants. In 2012, 1,5% of 874 individual applicants accounted for more than 60 % of the initial requests. A majority of these applicants (663) introduced only one request for public access in 2012.

2.1 Professional profiles and geographical distribution of applicants

In 2012, the academic world continued to be the most active category of applicants, followed by civil society organisations (commercial/industrial sector, NGO's and other interest groups) and law firms. Since the applicants are not required to indicate their identity or provide reasons for their requests, the occupational background of a significant proportion of them (16,5%) is unknown.

As it was the case in previous years, requests originating from academics clearly increased towards the end of the academic year. During 2012, one third of the requests received from students and researchers were introduced during the months of April-June. However, the number of requests received from law firms and civil society organisations remained fairly stable all year round, with August being the month with the lowest number of applications received.

As regards the geographical distribution of the applicants, the majority of the initial requests came from Belgium (33,0%), Germany (14,5%) and the United Kingdom (11,5%).

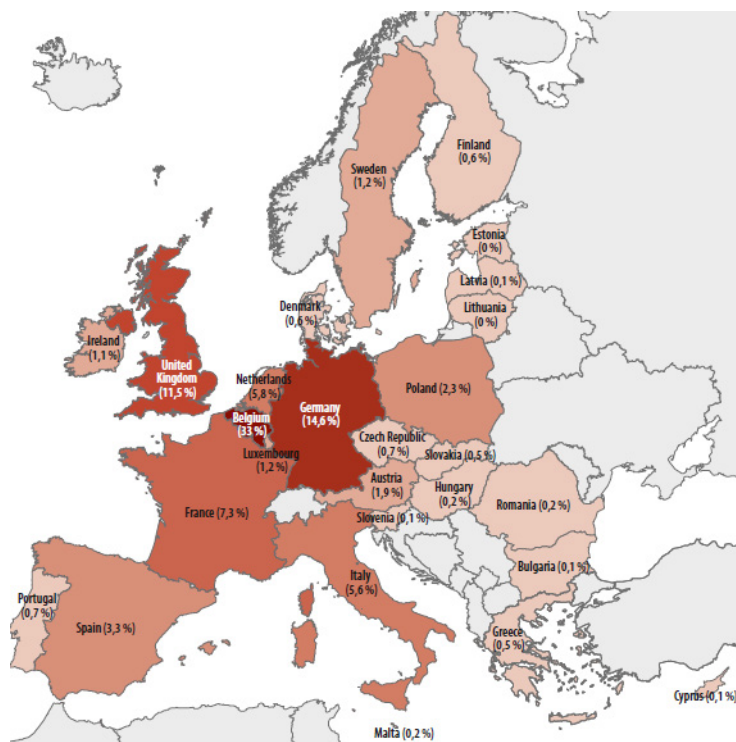


Figure 2: Geographical distribution of the applicants (initial requests)

The same applies to the confirmatory requests, where no less than 38,1% came from Belgium, 19,0% from Germany and 14,5% from the United Kingdom.

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

An increasing number of platforms offer the possibility for everybody to introduce requests to national or international public organisations for access to information or to documents, such as whatdotheyknow.com, fragdenstaat.de and rcfp.org/foia. AsktheEU.org offers the possibility for people to introduce requests for access to documents of the European institutions and bodies. The platform then publishes the whole application process online. Since 2012, the number of initial requests for access sent to the General Secretariat of the Council via the AsktheEU.org platform has been continuously rising.

2.2 Policy areas covered by the requests

The most popular fields covered by the requests in 2012 were the areas of freedom, security and justice as well as external relations, including the common foreign and security policy (CFSP) and the European Security and Defence Policy (ESDP). As regards the requests for access to classified documents, 48,0% concerned the area of freedom, security and justice and 37,0% the external relations, including the CFSP and the ESDP.

In 2012, the political agenda of the EU was marked by a relatively high number of mediatised events: The Eurogroup (the informal gathering of the Finance Ministers of the Member States who share the single currency) met no less than 15 times to discuss issues of relevance for the functioning of economic and monetary union. In addition, the European Council discussed issues in the field of economic and monetary policy during the combined total of seven formal and informal meetings held in 2012.

Nevertheless, whilst the number of requests for access to documents related to economic and monetary issues increased slightly in March 2012 (when the Eurogroup met three times and the European Council met once), no overall increase of requests related to this policy area could be observed for the remaining part of the year. Neither did other political events of general interest to the public, such as the United Nations Climate Change Conference in Doha, Qatar, which took place from 26 November until 8 December 2012, generate a notable increase in the number of requests for public access.

All in all, the types of documents requested by the different groups of applicants in 2012 followed the same relatively stable pattern that has been observed in previous years:

- applicants from the academic world mainly request access to documents concerning the area of freedom, security and justice and/or the CFSP, including ESDP;
- in turn, the policy areas to which civil-society applicants' requests for access relate, vary according to the respective applicant's subgroup:
 - consultants are mainly interested in documents relating to the area of freedom, security and justice or concerning taxation and economic and monetary affairs;
 - the industrial and commercial sector representatives mainly request documents relating to the internal market, including competitiveness, taxation and economic and monetary affairs;
 - lobbyists/other interest groups are mainly interested in documents relating to taxation and economic and monetary affairs;
 - NGOs are mainly looking for documents relating to the area of freedom, security and justice.
- law firms are equally interested in documents concerning taxation and economic and monetary affairs, the internal market (competitiveness included,) as well as documents concerning the areas of freedom, security and justice and external relations, including CFSP and ESDP.

Based on the foregoing, one can conclude that the different groups of applicants continue to focus on the "traditional" policy areas and that political events do not influence the evolution of requests. Not even the economic crisis or the debate on climate change generated more requests for access to documents concerning these issues.

2.3 Application of exceptions to the right of public access

In 2012, the General Secretariat examined requests for access to a total of 6.166 documents, 4.858 of which were made available at the initial stage (3.860 in full and 998 in part), whereas access was refused to 1.308 documents.

During the same period, 23 confirmatory applications were made in respect of 78 documents:

- for 63 documents, the Council confirmed the initial position of its General Secretariat;
- for 8 documents, partial or extended partial access was granted; and
- 7 documents were released in their entirety.

One confirmatory application was withdrawn by the applicant before the reply to the request had been approved by the Council.

2.3.1 Grounds for refusal

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

- protection of the decision-making process
- protection of the public interest with regard to international relations
- protection of the public interest as regards public security

In 30,0% of cases where access was fully refused, several grounds for refusal were invoked (in more that half of the cases the protection of the public interest with regard to public security together with the protection of the public interest with regard to international relations). In 24,7% of cases where access was partially refused, several grounds for refusal were invoked (most often the protection of the public interest as regards international relations 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 2012 concerning public access to documents of the Council or the European Council.

1. Complaints lodged with the European Ombudsman

Complaint 531/2012/MMN of 9 March 2012

This complaint concerned an alleged instance of maladministration by the European Council for not having identified and mentioned more than one document relating to discussions held with the Institute of International Finance (IIF) before, during and after the Euro Summits and European Council summits of July 21st, October 23rd and October 26th 2011.

Following this complaint, the European Ombudsman invited the European Council to clarify whether it held any additional documents which fall within the scope of the complainant's request for access and, moreover, to explain the reasons why the two documents it identified (an e-mail and a letter) fall in their entirety within the scope of the exception established in article 4(1)(a) fourth indent of Regulation 1049/2001.

In its letter to the Ombudsman of 20 July 2012 ¹¹, the European Council confirmed that it did not hold any additional documents falling under the scope of the complainant's public access request. It moreover pointed out, as it had done in its reply to the complainant's confirmatory request, that the release of even parts of the identified documents would undermine the necessary trust among the entities involved in the complex and highly sensitive negotiations conducted in 2011 with a view to

¹¹ See document 12904/12.

solving the difficulties relating to the sustainability of the Greek debt and to the Euro area. The European Council had therefore refused access to both documents in their entirety, pursuant to Article 4(1)(a) fourth indent, of Regulation 1049/2001 (protection of the public interest as regards the financial, monetary or economic policy of the EU or a Member State).

Based on this background, the European Council believed the complaint to be unfounded.

Complaint 862/2012/RT of 26 April 2012

This complaint was lodged against the European Council for having failed to handle, and in a correct and timely manner, the complainant's request for access to a legal opinion on the draft “Fiscal Compact Treaty”.

In its reply to the Ombudsman of 24 July 2012¹², the Council pointed out that the initial and confirmative requests for access to a document concerning the draft “Fiscal Compact Treaty” had been sent to and dealt with by the Council and its General Secretariat, and the complaint therefore only applied to the activities of the Council and not those of the European Council. The Council considered furthermore the complaint to be inadmissible, since it had been lodged even before the Council had taken its final decision with regard to the complainant's confirmatory request.

Following the Council's reply, the complainant sent his observations to the Ombudsman on 4 October 2012, withdrawing his complaint but raising a new allegation and claim concerning the substance of the reply to his confirmatory application. With his letter to the Council dated 30 January 2013, the Ombudsman indicated that for procedural reasons, he had therefore decided to close his inquiry into complaint 862/2012/RT and open a new inquiry under the reference 167/2013/RT.

¹² See document 10830/12.

Complaint 1649/2012/RA of 9 August 2012

In this case, the complainant contended the Council's decision to refuse access to a document setting out the Common Steps towards visa-free short term travel of Russian and EU citizens (doc. 18217/11). In its reply to the Ombudsman of 20 December 2012¹³, the Council reiterated that the requested document included a list of actions to be implemented by both the EU and the Russian Federation in preparation of a visa-free travel agreement. Moreover, the content of the document had not been communicated to the public by the negotiating partners, and since its unilateral disclosure by the EU would negatively affect the climate of confidence among the actors involved in the negotiations and thus prejudice the EU's relations with Russia, the document could not be disclosed without the explicit consent of the Russian authorities.

However, following extensive consultations, the Russian authorities subsequently gave their consent to public disclosure of the Common Steps document, and the General Secretariat of the Council was thus in a position to transmit the document to the applicant on 13 March 2013. The Council informed the European Ombudsman accordingly by letter sent on 25 March 2013.

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. While the complainant claimed that the Council should disclose the requested documents in their entirety, the Council had refused the request in part on the grounds that full disclosure of the documents concerned would undermine the public interest as regards international relations.

By letter of 15 October 2012, the Ombudsman informed the Council about the complaint and asked the Council to arrange for an inspection of the documents. This inspection took place on 28 January 2013, and on 29 April 2013 the General Secretariat forwarded its response to the final report concerning the outcome of this inspection, sent by the Ombudsman to the Council by letter dated 4 March 2013.

¹³ See document 14261/12.

2. Legal action

In 2012, the General Court delivered four rulings regarding actions brought against Council decisions to refuse public access to documents under Regulation (EC) No 1049/2001.

Firstly, by judgment of 4 May 2012 in Case T-529/09 (*Sophie in't Veld v. Council*), the General Court (Fifth Chamber) partially annulled the Council's decision of 29 October 2009 refusing full public access to document 11897/09 containing an opinion of the Council Legal Service regarding the legal basis of the envisaged SWIFT Agreement. The Court thus considered 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.

Secondly, on 3 October 2012, the General Court handed down its rulings in cases T-465/09 and T-63/10 (both *Jurašinović v. Council*).

In case T-465/09, the General Court upheld the Council's decision refusing public access to documents on the monitoring activities of the European Union Monitoring Mission (EUMM) in the area of Knin in Croatia pursuant to Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001. (protection of the public interest as regards international relations).

Case T-63/10 concerned an application for access to the Council's decisions on transmission of documents to the International Criminal Tribunal for the former Yugoslavia (ICTY), which had been requested by the ICTY in the framework of the proceedings against Mr. Ante Gotovina.

In the latter Case, the General Court accepted the Council's refusal to disclose any EUMM-reports on the same grounds as in Case T-465/09. However, it did take the view that other parts of the correspondence between the Council and the ICTY merely concerned organisational aspects of the proceedings against Mr. *Gotovina*, and that the Council consequently had been in a position to decide upon their possible release to the public.

The Council is currently re-examining these documents, which are of a more procedural nature, with a view to deciding upon their possible disclosure to the applicant.

Thirdly, on 8 October 2012, the General Court dismissed the action in case T-62/12 (*ClientEarth v. Council*), by which the applicant sought, for a second time, to obtain the annulment of the Council's decision to refuse full public access to a legal opinion contained in document 6865/09. In its ruling, the General Court reiterated that it had dismissed the applicant's first action against the Council as manifestly inadmissible by order of 6 September 2011¹⁴. The General Court underlined moreover that the Council, when refusing access to the applicant's second request for access to document 6865/09 in December 2011, had rightly concluded that there was no change in the legal or factual situation as compared to the situation underlying the previous decision, which the Council had taken in July 2010.

Pending court cases

In addition to the above-mentioned cases, one case challenging the legality of the Council's decision to refuse public access pursuant to Regulation (EC) No 1049/2001 is currently pending before General Court¹⁵, in addition two appeal cases brought by the Council in 2011¹⁶ and 2012¹⁷ are pending before the Court of Justice.

¹⁴ Refer also to the summary of the ruling of the General Court in case T- 452/11 in the 2011 annual Council report on public access to documents, page 19.

¹⁵ T-331/11 (*Besselink v. Council*) See the 2011 annual Council report on public access to documents, page 19.

¹⁶ C- 280/11 P (*Council v. Access Info Europe*). See the 2011 annual Council report on public access to documents, pages 18 – 19.

¹⁷ C-350/12 P (*Council v. Sophie In't Veld*) against the ruling of the General Court in case T-529/09 referred to above.

IV. FINAL REMARKS

The description available for the year 2012 highlights the increasing importance of the Council's public register as a search tool for members of the public seeking to exercise their right to access to documents. This went along with a continuing downward trend in the number of initial requests for Council documents. Thorough examination of initial requests over the previous years has led to a significant decrease in the number of confirmatory applications during recent years.

However, as regards the *background* of applicants and the *policy areas covered* by the requests, hardly any variations can be observed in comparison to previous years. In particular, there appears to be no link between requests and debates on political issues, such as the economic crisis, or political events, such as the meetings of the European Council and the meetings of the Eurogroup, which are widely covered in the media.

The vast majority of the applicants for access to Council documents 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.

Yet, information provided via the access to document "mechanism" may eventually benefit a wider audience than the "direct applicants", who in turn very often act as information multipliers vis-à-vis the members of their own organisations. Moreover, EU specialists representing, e.g. civil society organisations, think tanks and the academic environment are well placed to reach out to a relatively large segment of the general public. They do not only communicate their findings and observations in the form of specialised publications, but also in the form of reports and press releases and via the media in general.

The analysis of the processing of requests for public access and the 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 2012.

STATISTICS ON PUBLIC ACCESS TO COUNCIL DOCUMENTS

Situation on 31/12/2012

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

2008	2009	2010	2011	2012
2.238	2.666	2.764	2.116	1.871

2. Number of documents requested by initial applications

2008	2009	2010	2011	2012
10.732	8.444	9.188	9.641	6.166

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

2008	2009	2010	2011	2012
9.215	6.453	7.847	8.506	4.858
partially/entirely 1.540 7.675	partially/entirely 1.117 5.336	partially/entirely 1.369 6.478	partially/entirely 1.103 7.403	partially/entirely 998 3.860

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

2008	2009	2010	2011	2012
25	33	28	27	23

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

2008	2009	2010	2011	2012
74	351	181	59	78
43 partially/entirely 19 24	88 partially/entirely 26 62	118 partially/entirely 80 38	40 partially/entirely 15 25	28 partially/entirely 21 7

6. Rate of document released for the procedure as a whole ¹⁸

2008		2009		2010		2011		2012	
71,8%	86,4%	63,9%	77,5%	70,9%	86,7%	77,0%	88,6%	64,9%	81,2%

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

2008		2009		2010		2011		2012	
1.195.509	883.748 (73,9%)	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%)

¹⁸ Based on documents released entirely (left column) or entirely + partially (right column).

8. Professional profile of the applicants (initial applications)

		2008		2009		2010		2011		2012			
Civil society	Environmental Lobbies	18,3%		17,2%		18,5%		0,2%	17,0%		0,3%	17,9%	
	Other groups of interests							6,2%			5,7%		
	Industrial/ Commercial Sector							7,8%			8,3%		
	NGOs							2,7%			3,6%		
Journalists		2,8%		2,7%		2,6%		3,3%		2,8%			
Lawyers		9,5%		11,4%		10,1%		10,0%		9,8%			
Academic world	University Research	32,6%	33,7%	32,7%	33,7%	32,5%	33,7%	35,7%	37,6%	32,2%	33,4%		
	Library	1,1%		1,0%		1,2%		1,8%		1,2%			
Public authorities (non-EU institutions, third-country representatives, etc.)		7,6%		4,1%		5,6%		5,4%		4,0%			
Members of the European Parliament and their assistants		1,8%		1,4%		1,1%		0,9%		1,0%			
Others		14,7%		15,9%		14,6%		12,3%		14,1%			
Undeclared professional origin		10,9%		12,6%		13,3%		13,5%		16,5%			

9. Professional profile of the applicants (confirmatory applications)

		2008		2009		2010		2011		2012		
Civil society	Environmental lobbies	21,0%		15,6%		23,1%		0%	15,5%		0%	28,5%
	Other groups of interests							3,9%			19,0%	
	Industrial/ Commercial Sector							7,7%			0%	
	NGOs							3,9%			9,5%	
Journalists		10,5%		6,2%		7,7%		11,5%		9,5%		
Lawyers		10,5%		18,8%		11,5%		15,4%		14,3%		
Academic world	University Research	31,6%	31,6%	46,9%	46,9%	42,3%	42,3%	34,6%	34,6%	23,8%	23,8%	
	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		5,3%		3,1%		0%		3,8%		4,8%		
Others		5,3%		3,1%		7,7%		11,5%		4,8%		
Undeclared professional origin		15,8%		6,3%		7,7%		7,7%		14,3%		

10. Geographical spread of the applicants (initial applications)

		2008	2009	2010	2011	2012
Belgium		31,0%	28,2%	29,3%	30,5%	33,0%
Bulgaria		0,2%	0,3%	0,2%	0,4%	0,1%
Czech Republic		0,9%	1,2%	1,1%	1,0%	0,7%
Denmark		1,2%	1,0%	1,6%	1,0%	0,6%
Germany		14,5%	14,8%	13,9%	14,5%	14,6%
Estonia		0%	0,1%	0,1%	0%	0%
Greece		0,7%	0,8%	0,8%	0,7%	0,5%
Spain		6,4%	5,9%	5,5%	3,5%	3,3%
France		7,0%	8,0%	7,5%	7,7%	7,3%
Ireland		0,6%	0,9%	0,4%	0,7%	1,1%
Italy		5,9%	4,7%	5,4%	6,3%	5,6%
Cyprus		0,2%	0,3%	0%	0,2%	0,1%
Latvia		0,2%	0,2%	0,1%	0,2%	0,1%
Lithuania		0,1%	0,2%	0,3%	0,1%	0%
Luxembourg		1,5%	1,8%	1,3%	1,3%	1,2%
Hungary		0,9%	1,0%	0,7%	0,8%	0,2%
Malta		0,2%	0,3%	0,4%	0,2%	0,2%
Netherlands		5,7%	5,7%	4,8%	7,6%	5,8%
Austria		1,3%	1,9%	2,1%	1,9%	1,9%
Poland		1,5%	1,4%	2,4%	1,6%	2,3%
Portugal		0,9%	0,8%	1,2%	0,9%	0,7%
Romania		0,6%	1,2%	1,0%	0,2%	0,2%
Slovenia		0,2%	0,4%	0,3%	0,2%	0,1%
Slovakia		0,3%	0,6%	0,7%	0,3%	0,5%
Finland		0,7%	0,2%	0,5%	0,4%	0,6%
Sweden		1,8%	1,8%	2,0%	1,3%	1,2%
United Kingdom		7,4%	8,7%	9,0%	9,2%	11,5%
Third countries	Candidate countries	0,4%	0,3%	0,3%	0,5%	0,2%
	Others	7,3%	6,5%	6,5%	5,9%	4,2%
Non specified		0,4%	0,8%	0,6%	0,9%	2,2%

11. Geographical spread of the applicants (confirmatory applications)

		2008	2009	2010	2011	2012
Belgium		30,0%	22,6%	28,0%	23,1%	38,1%
Bulgaria		0%	0%	0%	0%	0%
Czech Republic		5%	0%	4%	0%	0%
Denmark		0%	0%	0%	3,9%	0%
Germany		20,0%	25,8%	20,0%	19,2%	19,0%
Estonia		0%	0%	0%	0%	0%
Greece		0%	0%	0%	0%	0%
Spain		5,0%	9,7%	4,0%	3,8%	0%
France		5,0%	6,4%	4,0%	7,7%	9,5%
Ireland		0%	0%	0%	0%	0%
Italy		5,0%	6,4%	4,0%	7,7%	0%
Cyprus		0%	0%	0%	0%	0%
Latvia		0%	0%	0%	0%	0%
Lithuania		0%	0%	0%	0%	0%
Luxembourg		0%	3,2%	0%	0%	0%
Hungary		0%	0%	0%	0%	0%
Malta		0%	0%	0%	0%	0%
Netherlands		10,0%	6,5%	4,0%	7,7%	4,8%
Austria		0%	0%	0%	0%	0%
Poland		0%	0%	4,0%	0%	0%
Portugal		5,0%	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%	0%
Sweden		0%	0%	8,0%	0%	0%
United Kingdom		5,0%	9,7%	16,0%	23,1%	14,3%
Third countries	Candidate countries	0%	0%	4,0%	0%	0%
	Others	0%	9,7%	0%	0%	0%
Non specified		10,0%	0%	0%	0%	14,3%

12. Field

	2008	2009	2010	2011	2012
Agriculture, Fisheries	5,7%	7,3%	3,9%	3,5%	5,0%
Internal Market	3,4%	7,7%	7,9%	8,0%	9,7%
Research	0,1%	0,5%	0,5%	0,4%	1,0%
Culture	0,3%	0,3%	0,2%	0,2%	0,7%
Education/Youth	0,5%	0,6%	1,1%	0,4%	0,2%
Industry	0,7%	0,6%	0,1%	0,1%	0%
Competitiveness	2,6%	1,9%	1,5%	1,4%	1,6%
Energy	2,0%	3,5%	0,9%	2,1%	2,7%
Transport	2,5%	1,9%	2,5%	1,5%	1,4%
Environment	10,0%	8,6%	10,7%	9,1%	7,6%
Health and Consumer Protection	1,9%	8,1%	5,6%	3,6%	3,5%
Economic and Monetary Policy	2,6%	2,6%	4,4%	5,9%	6,9%
Tax Questions – Fiscal Issues	6,3%	7,6%	7,5%	12,5%	6,7%
External Relations – CFSP	16,2%	12,2%	14,4%	12,8%	10,7%
Civilian Protection	0,2%	0,2%	0,1%	0%	0,6%
Enlargement	0,7%	1,4%	0,8%	1,0%	1,2%
Defence and Military matters	3,4%	4,6%	4,0%	2,2%	2,7%
Assistance for Development	0,1%	0,3%	0,2%	0,1%	0%
Regional Policy and Economical/Social Cohesion	0%	0%	0%	0,1%	0,4%
Social Policy	3,0%	3,4%	4,0%	2,7%	3,9%
Justice and Home Affairs	25,4%	15,3%	14,0%	19,5%	18,1%
Legal questions	3,5%	2,7%	2,6%	3,1%	5,4%
Functioning of the institutions	0,9%	0,8%	2,1%	2,4%	2,4%
Financing of the Union (Budget, Statute)	0,1%	0,2%	0,1%	0,2%	0,8%
Transparency	0,1%	0,3%	0,3%	0,3%	1,2%
General policy questions	0,6%	0,5%	1,0%	0,6%	0,7%
Parliamentary Questions	4,4%	4,1%	5,3%	3,0%	2,5%
Various	0,7%	0,5%	0,6%	0,2%	0,2%

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

	2008		2009		2010		2011		2012	
	#	%	#	%	#	%	#	%	#	%
Protection of public interest as regards public security	92	6,4%	109	5,6%	92	7,0%	93	8,9%	64	5,8%
Protection of public interest as regards defence and military matters	35	2,4%	67	3,5%	25	1,9%	15	1,4%	18	1,6%
Protection of public interest as regards international relations	401	27,7%	442	22,9%	319	24,2%	221	21,2%	226	20,5%
Protection of public interest as regards the financial, monetary or economic policy of the Community or a Member State	0	0%	0	0%	6	0,5%	11	1,1%	0	0%
Protection of privacy and the integrity of the individual (protection of personal data)	7	0,5%	5	0,3%	5	0,4%	2	0,2%	2	0,2%
Protection of commercial interests of a natural or legal person, including intellectual property	0	0%	1	0%	0	0%	0	0%	0	0%
Protection of court proceedings and legal advice	22	1,5%	8	0,4%	11	0,8%	10	1,0%	7	0,6%
Protection of the purpose of inspections, investigations and audits	2	0,1%	1	0%	4	0,3%	0	0%	0	0%
Protection of the Institution's decision-making process	519	35,9%	756	39,1%	436	33,1%	426	40,9%	455	41,3%
Several reasons together or other reasons	367	25,4%	545	28,2%	417	31,7%	264	25,3%	330	30,0%
Document not held by the Council/Other author	1	0,1%	0	0%	1	0,1%	0	0%	0	0%

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

	2008		2009		2010		2011		2012	
	#	%	#	%	#	%	#	%	#	%
Protection of public interest as regards public security	5	16,1%	20	7,6%	24	38,1%	3	15,8%	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	24	77,4%	38	14,5%	35	55,5%	15	78,9%	2	3,9%
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%	0	0%	1	2,0%
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	2	6,5%	0	0%	1	1,6%	0	0%	1	2,0%
Several reasons together or other reasons	0	0%	205	77,9%	3	4,8%	1	5,3%	47	92,1%
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)

	2008		2009		2010		2011		2012	
	#	%	#	%	#	%	#	%	#	%
Protection of public interest as regards public security	0	0%	42	3,7%	56	4,1%	49	4,4%	44	4,8%
Protection of public interest as regards defence and military matters	0	0%	2	0,2%	4	0,3%	1	0,1%	2	0,2%
Protection of public interest as regards international relations	20	1,3%	21	1,9%	164	12,0%	323	29,3%	174	18,8%
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%	10	0,9%	57	4,2%	35	3,2%	125	13,5%
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	1	0,1%	37	3,3%	111	8,1%	58	5,2%	18	1,9%
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	2	0,1%	202	18,1%	707	51,6%	422	38,3%	334	36,1%
Several reasons together or other reasons	1.517	98,5%	803	71,9%	270	19,7%	215	19,5%	228	24,7%
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)

	2008		2009		2010		2011		2012	
	#	%	#	%	#	%	#	%	#	%
Protection of public interest as regards public security	0	0%	0	0%	0	0%	1	6,7%	3	13,0%
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	0	0%	0	0%	21	26,2%	6	40,0%	2	8,7%
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%	1	1,3%	0	0%	1	4,4%
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	0	0%	3	11,6%	0	0%	1	6,7%	1	4,4%
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%	7	26,9%	12	15%	2	13,3%	1	4,3%
Several reasons together or other reasons	19	100%	16	61,5%	46	57,5%	5	33,3%	15	65,2%
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

	2008	2009	2010	2011	2012
For the initial applications	16 (2.238 closed appl.)	14 (2.666 closed appl.)	17 (2.764 closed appl.)	16 (2.116 closed appl.)	16 (1.871 closed appl.)
For the confirmatory applications ¹⁹	25 (25 closed appl.)	26 (33 closed appl.)	28 (28 closed appl.)	29 (27 closed appl.)	28(22 closed appl.)
Ponderated average (initial + confirmatory)	16,10	14,15	17,11	16,16	16,15
Ombudsman ¹	44	0	50	32	64

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

	2008	2009	2010	2011	2012
Initial applications	497 of 2.238, being 22,2% of the applications	536 of 2.666, being 20,1% of the applications	773 of 2.764, being 28,0% of the applications	513 of 2.116, being 24,2% of the applications	452 of 1.871, being 24,2% of the applications
Confirmatory applications ¹	20 [of 25]	32 [of 33]	26 [of 28]	23 [of 27]	20 [of 23]

¹⁹ Confirmatory applications and complaints to the European Ombudsman are examined by the Council's Working Party on Information and by the Permanent Representatives Committee (Part 2). Replies to the applicants and to the European Ombudsman are adopted by the Council.