

**2013 ANNUAL REPORT OF THE
EUROPEAN PARLIAMENT
ON PUBLIC ACCESS TO DOCUMENTS
(Regulation (EC) No 1049/2001 – Article 17)**

(Pursuant to Rule 104(7) of Parliament's Rules of Procedure)

FOREWORD

The European Parliament, Council and Commission have been applying Regulation (EC) No 1049/2001 on public access to the documents held by these three Institutions since 3 December 2001¹.

In accordance with Article 17(1) of this Regulation: "*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*"

This is the 12th report produced by Parliament in this context². It provides both a technical review of Parliament's Public Register of Documents³ and a description of requests for access to documents made to the European Parliament in 2013. The report also comments on the practical concerns raised by requests received to access Parliament documents during that period. Aggregate data on the processing of applications and on consultation of the register website can be found in annexes to this report.

ACRONYMS

ERR= Electronic Register of References (register)
DG COMM = Parliament Directorate for Communication
COREPER = Council's Permanent Representatives Committee
LIBE = Committee on Civil Liberties, Justice and Home Affairs

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¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:145:0043:0048:EN:PDF>

² <http://www.europarl.europa.eu/RegistreWeb/information/report.htm?language=EN>

³ Technically called *electronic register of references* or ERR, herein referred to as "the register"

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I. EXECUTIVE SUMMARY

- The content of Parliament's Public Register of Documents (technically called *electronic register of references* or ERR) continues to expand, containing 10% more document references than in 2012 (508 436 document references or 3 372 128 documents when all language versions are taken into account). Between 90-95% can be directly downloaded from Parliament's website while other documents can be requested via the online request form.
- The number of visits to the register's webpage grew faster than in previous years, up by 53% compared with 2012 (253 858 total visits in 2013; 21 155 visits per month; 695 on an average weekday).
- In parallel, a continued decrease can be noted in the numbers of specified documents being requested from Parliament: 610 documents were requested during 2013 (introduced by 447 applicants), representing a 21% drop in documents requested compared with the previous year (777 documents were requested in 2012 from 536 applicants).
- Academics and researchers continue to represent the largest share of applicants, 43% in 2013 (compared with 34% in 2012). The next largest category of applications came from other civil society groups (18%), followed by applicants who preferred not to provide information about their background (15%). English is by far the most frequent language used, representing over half of requests, while the largest share of applications came from applicants based in Belgium.
- In a typical case scenario in 2013, an applicant requesting access to documents received a response within 5 working days from Parliament.
- Parliament released 84 not previously disclosed documents to the public in 2013, following requests made by 36 applicants. The positive response rate at the initial stage is 95% and concerned essentially Parliament legal opinions, Bureau notes and other internal reports, notably reports on *trilogue* meetings (see rule 70(4) of EP Rules of procedure).
- A steady share of requests made in 2013 concerned unspecified documents (e.g. requests made for "all documents related to"....) at around 12.5% of all requests. The share of requests for non-tabled Members' documents (agendas and minutes of meetings with interest representatives, correspondence, etc.) also remains stable at around 5% of all requests. In line with Rule 104 of EP Rules of Procedure, such documents are not considered Parliament documents. These types of requests are not reflected in the statistics because the number of documents being requested is not known.
- Access was refused to five documents in 2013, and partial access was provided to three other documents. The refusals were mainly based on exceptions relating to protection of privacy and integrity of the individual and on protection of the decision-making procedure, see Articles 4(1)(b) and 4.3 of Regulation (EC) No 1049/2001.
- One confirmatory application was received in 2013, following an initial refusal to grant access to documents (Article 8 of Regulation (EC) No 1049/2001).
- One complaint was lodged with the Ombudsman against Parliament in 2013 with regard to access to documents requests, but the Ombudsman found no grounds for further action.
- In 2013, no Court judgments were handed down on Parliament decisions concerning access to documents, although several interesting judgments were handed down with regard to the other institutions (outlined in chapter V 2.2) in this regard.

II. REGULATION (EC) No 1049/2001 AND ITS IMPLEMENTATION

Following a 21 March 2011 Commission proposal for adapting Regulation (EC) No 1049/2001 to the Lisbon Treaty's requirements regarding transparency, revision of this regulation was on-going in 2013.

1. Revision of Regulation (EC) No 1049/2001

On 15 December 2011, the European Parliament adopted its position⁴ at first reading on the 2008 Commission proposal for a recast of the regulation, on the basis of the report drawn up by MEP Michael Cashman, rapporteur for the Committee on Civil Liberties, Justice and Home Affairs (LIBE). In its position, Parliament considered that the procedure relating to the 2011 Commission proposal had lapsed as a result of the Parliament's incorporation of its content in its position on the 2008 proposal.

In 2012, as a result of the trilogues and technical meetings between the Parliament and the Council - under the Irish rotating Presidency - the Institutions' positions were reconciled, but remained too far apart on a number of sensitive issues including the definition of a document⁵ and on the protection of Institutions' internal deliberations ("space to think")⁶.

On 12 June 2013, Parliament's plenary adopted a resolution⁷ on the deadlock of the revision of Regulation (EC) No 1049/2001, calling on the Commission and Council to act, and reaffirming its position adopted on 15 December 2011 as the starting position for negotiations⁸.

On 20 February 2014 Parliament's LIBE Committee adopted a report on public access to documents for the years 2011-13, calling on the Council to move forward with the revision of Regulation (EC) No 1049/2001⁹. This report also calls on the three institutions to provide comparable statistics in their annual reports on access to documents; to improve the transparency of informal trilogues; to provide as wide an access as possible to opinions of their legal services and to assess the practice of in camera meetings.

2. Parliament rules on public access to documents and document management

The Bureau decision of 28 November 2001 laying down internal rules on access to European Parliament documents implementing Regulation (EC) No 1049/2001 was revised and adopted by the Bureau on 22 June 2011¹⁰.

These new rules clarify the scope of this Regulation as applicable to Parliament documents, in particular: the appropriate procedures and alternative legal basis for requests for documents introduced by MEPs or EU officials; appropriate procedures for the administration of requests

⁴ P7-TA(2011)0580

⁵ Article 3 of Regulation (EC) No 1049/2001

⁶ Linked to Article 4, paragraph 3 of the same regulation, dealing with the decision-making process of the Institution

⁷ P7-TA(2013)0271

⁸ The resolution states that as an absolute minimum a revision should: explicitly extend the scope to all EU institutions, offices and agencies; enhance legislative transparency, including access to legislative legal opinions; clarify the relationship between transparency and data protection; include the Aarhus Convention; consider the current broad definition of a document as a minimum basis for further development; ensure appropriate access to documents and transparency in relation to international negotiations and agreements; provide for financial transparency of EU funds; not introduce any block exemption.

⁹ The report is due to be voted in plenary before the end of the legislative term.

¹⁰ OJ C 216, 22.7.2001, p. 19

for information¹¹, when that information is not available in an existing document; and appropriate Parliament services responsible for requests for documents (i.e. Transparency Unit, Historical Archives Unit, Citizens' Enquiries Unit and the Directorate-General for Communication (DG COMM)).

A 2012 Bureau decision on new arrangements for internal document management¹² led during 2013 to the appointment by each Directorate-General of a document management officer (RAD) and the setting-up of the interdepartmental group of document management officers (GIDOC) to ensure proper implementation of the new document management system.

Better classification of documents should lead to improved efficiency and identification of documents. In 2013, the Transparency Unit completed its guide for the EP services and in particular for the RADs on the practical aspects of public access to Parliament documents, drawing on the experience and case law of the last ten years or so (cf. EP Handbook on Access to Documents). This guide should be officially approved and transmitted to EP services during the course of 2014.

III. PARLIAMENT'S PUBLIC REGISTER OF DOCUMENTS

The current version of the register exists since 27 January 2011 when a more ergonomic product with an improved search facility was introduced. The register contains references to Parliament documents from 2001 to the present day.

1. Content of the register - range of documents available

The volume of documents contained in the register, as reported annually, continues to grow parallel to document output of Parliament, although growth slowed somewhat in 2013 compared with 2012. An estimated 90-95% of Parliament documents are directly accessible to the public online in the register, in keeping with the provisions of Article 12 of Regulation (EC) No 1049/2001. Access to all other documents can be requested via the online request form¹³.

By 31 December 2013, the register's database contained 508 436 references (corresponding to 3 372 128 documents when all language versions are taken into account). This represents 10% growth in volume, compared with 2012.

The range of documents available increases as the register incorporates a widening variety of documents relative to the legislative process, in parallel to the growth of Parliament's competences. New types of documents incorporated in 2013 include: documents related to the Code of Conduct of Members (register heading 1.3.2); answers to parliamentary questions to the ECB (1.4.12 & 1.4.13); statistical spotlights produced by Parliament's Library services (2.3.4.2) and *Eurobarometer* surveys (2.4). Additionally, Parliament's stock of factsheets (2.3.2) was entirely updated by DG IPOL (thematic departments).

¹¹ These kinds of requests are dealt with by the competent services and/or the Citizens' Enquiry Service (CITES)

¹² Decision of 2 July 2012. Its Article 9 deals with "document management officers", who according to letter c) shall be responsible in particular for "*making available documents which have been drawn up or received within the framework of the areas of competence of the directorate-general and which are asked for by the department responsible for public access to documents, accompanying the documents in question with an opinion of the follow-up action to be taken.*" This provision mirrors Article 9 of the Bureau decision of 22 June 2011, according to which "*where the document in question needs to be identified and found... the service or body that is the originator of the document... shall suggest the course of action to be taken within five working days*"

¹³ <https://www.secure.europarl.europa.eu/RegistreWeb/requestdoc/secured/form.htm?language=EN>

2. Sensitive documents

Article 9 of Regulation (EC) No 1049/2001 lays down specific processing procedures for 'sensitive' documents¹⁴. Under paragraph 3 of this article, sensitive documents can be recorded in the register only with the consent of the originator.

Article 17(1) of Regulation (EC) No 1049/2001 stipulates that the annual report shall state the number of sensitive documents not recorded in the register. In 2013 Parliament held no sensitive document within the meaning of Article 9 of Regulation (EC) No 1049/2001, and thus no such document was recorded in Parliament's Public Register of Documents.

Moreover, Article 12, paragraph 2, of the Bureau Decision on rules governing the treatment of confidential information by the European Parliament, updated by decision of the Bureau on 15 April 2013, foresees that the Secretary General submits an annual report to the Bureau on the application of the above Decision. This annual report should include the number and typology of confidential documents received and held by the European Parliament.

3. Use of the register's webpage

3.1. Technical improvements to the register's webpage - current and future

As part of the proactive transparency policy advocated by the Ombudsman and called for by Parliament, the register's webpage is subject to continuous improvement in order to better facilitate direct access to Parliament documents.

In 2013, improvements to the register consisted in providing additional controls to guarantee a better quality of published data (e.g. studies, *Eurovoc* indexation extended to most of the legislative documents). The system was adapted to allow the uploading of Croatian language documents. Technical migration was finalised (to Oracle 11g 1.6 to 3.6) in order to improve the search engine; new servers exist dedicated to indexation and web service functions.

3.2. Number of visits

The register's webpage has seen continued strong growth in the numbers of visits, with a 53% rise year on year¹⁵. In 2013, a total of 253 858 visits on the website were recorded, which amounts to 21 155 visits per month on average, or 695 on an average weekday¹⁶.

Of the total visits, 105 096 were "unique visits"¹⁷, up by 20% compared with the previous year (87 293 in 2012). In 2013, such unique visits varied between 6 000 and 12 000 persons on a monthly basis, peaking in May (12 463 visits) and dipping in August (5 765 visits).

It is likely that such variations are linked to Parliament's legislative agenda. For example, a surge in visits in April and May 2013 could be linked to discussions on banking reform at committee and plenary level, preliminary discussions on data protection and preparation for the EU-US trade talks.

¹⁴ '(...) documents originating from the institutions or the agencies established by them, from Member States, third countries or International Organisations, classified as "TRÈS SECRET/TOP SECRET", "SECRET" or "CONFIDENTIEL" in accordance with the rules of the institution concerned, which protect essential interests of the European Union or of one or more of its Member States in the areas covered by Article 4(1)(a), notably public security, defence and military matters' (Article 9(1)).

¹⁵ Defined by the statistical tool as "new incoming visitor viewing/ browsing a page who was not connected during the last 60 minutes".

¹⁶ In 2012, 166 105 visits were recorded, or a 40% rise on 2011.

¹⁷ Defined as "number of different physical persons who had reached the website".

3.3 Observations on visits

In 2013 statistics show that the bulk of the register's visitors were based in the following countries (in descending order of hits on the website): Belgium, Germany, France, Spain, Great Britain and USA, followed by Netherlands and China. In 2012, the pattern differed slightly, when visitors based in South Korea and Italy figured more prominently.

Visitors connect to the register most often via the Google search engine, followed by the link provided to the EP register from the Commission's Europa webpages¹⁸. When searching for a document on the register, over 34% use the advanced search function, while just over 20% search by document type.

A popular function available in the register is the possibility to subscribe to a mailing list for a particular type of document, automatically distributed on addition of any new such documents to the register. On 31 December 2013, the register had 1 487 subscribers to document updates, which is down almost 200 compared to 2012, possibly due to technical difficulties met during 2013. Most of subscribers are external to the institutions (1434 external and 56 internal); subscriptions, in order of popularity, are made to: written questions; responses to written questions; Commission documents; adopted texts; draft documents; draft agendas; Parliamentary reports; Press service agendas.

Average time spent on the register by visitors is decreasing, which can be explained by both of the following trends: 1) users are becoming more familiar with the register and its structure, and 2) since June 2013 the studies displayed on *Europarl's* Think Tank pages are housed on the EP register, which are picked up via another website. The most popular study in 2013 was LIBE's study on mass surveillance of personal data¹⁹, with almost 14 000 hits.

3.4. Documents consulted

106 604 documents were consulted directly on the register's website in 2013. The ten most consulted types of documents were (in descending order): answers to written questions (41.74%); written questions (18%); Commission documents (3.2%); texts adopted (2.99%); parliamentary reports (2.54%); draft reports (1.97%); priority written questions (1.71%); briefings (1.42%); oral questions (1.2%) finalised committee minutes (1.17%).

When taking into account direct and indirect²⁰ consultations, the most popular documents were (in decreasing order): studies produced by the parliamentary committees, documents of the European Commission and EP library briefings. An important factor leading to the increase in visits on the EP register is its new role as a repository for all the Think Tank²¹ documents.

IV. ANALYSIS OF REQUESTS FOR ACCESS TO DOCUMENTS ADDRESSED TO PARLIAMENT

¹⁸ http://europa.eu/publications/official-documents/index_en.htm

¹⁹ http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/493032/IPOL-LIBE_ET%282013%29493032_EN.pdf

²⁰ Indirect consultations indicate when documents housed in the EP register are accessed from other webpages on *Europarl*

²¹

<http://www.europarl.europa.eu/thinktank/en/documents.html;jsessionid=247476963B28AE59AA1514427F989099.node2>

Over the past few years requests for documents made to Parliament have dropped, and while this is a phenomenon affecting all EU institutions²² Parliament remains the institution with the highest level of directly accessible documents.

1. Volume and evolution of requests and responses

1.1. Total volume of requests

A total of 610 documents were requested from Parliament in 2013 (from 447 applicants), representing a decrease of 21% compared with previous years²³. However, this decrease must be seen in parallel with three phenomena:

- In 2013 the register saw a 53% rise in visits. It appears that a growing number of visitors use the register, and are even consulting documents from other EU institutions (essentially Commission documents) on the EP register. Thus, fewer requests are submitted to the Parliament for documents that are already publicly accessible and the EP register is fulfilling the role and intention attributed to it (see Article 11 of Regulation (EC) N° 1049/2001).
- A steady share of requests made in 2013 concerned unspecified documents (e.g. requests made for "all documents related to"....) at around 12.5% of all requests. The share of requests for non-tabled Members' documents (agendas and minutes of meetings with interest representatives, correspondence etc.) also remains stable at around 5% of all requests. In line with Rule 104 of EP Rules of Procedure, such documents are not considered Parliament documents. These types of requests are not reflected in the statistics on the number of documents being requested.
- Clarifications provided by the Bureau's 2011 decision on rules governing public access to Parliament documents²⁴, have provided for a clearer understanding of the roles of various services within the administration, and more efficient treatment of applications. In 2013, a growing number of cases were dealt with by the Historical Archives Unit, the Citizens' Enquiries Unit or by DG COMM (for journalists), as the competent service for the type of information requested (9% of all requests were re-attributed in 2013 compared with just 5% in 2012).
- A growing trend exists for applicants to make their access to document requests to the EU institutions public, and several forums or portals exist to provide such a possibility. Parliament received 60 such requests in 2013, compared with 23 in 2012. In this way, document sharing and the visibility of requests may translate to fewer requests overall for the same or similar documents.

The above phenomena certainly contribute to the apparent drop in documents requested in 2013 via the register's website.

1.2. Total volume and deadlines of response

A total of 965 documents were sent by the Transparency Unit in 2013 following 447 applications. With fewer documents requested overall, it is clear that a more in-depth exchange can take place with those applicants researching vast areas of parliamentary activity.

²² See study: http://www.europarl.europa.eu/RegData/etudes/note/join/2013/493035/IPOL-LIBE_NT%282013%29493035_EN.pdf (p.6; p.33)

²³ 777 Parliament documents were requested in 2012 and 1 161 in 2011.

²⁴ See point 1.2. of this report

In a typical case scenario in 2013, an applicant requesting access to documents received a response within 5 working days from Parliament. Our institution applied for an extension of the deadline for response by 15 working days in just six cases during 2013, in accordance with Article 7(3) of Regulation (EC) No 1049/2001.

1.3. Requests for documents not previously disclosed

Parliament released 84 not previously disclosed documents to the public in 2013, following initial requests made by 36 applicants. The positive response rate at the initial stage is 95% and concerned Parliament legal opinions, Bureau notes and other internal reports, notably reports on *trilogue* meetings (Rule 70(4) of EP Rules of procedure).

Documents not previously disclosed, once released to an applicant, are considered public and are made available on the EP register, under heading 6: "Documents as disclosed following a prior request under Regulation (EC) No 1049/2001".

One confirmatory application was received in 2013, following an initial refusal to grant access to documents (Article 8 of Regulation (EC) No 1049/2001). For the sake of clarity, four confirmatory applications which were received in 2012 (and accounted for in the 2012 annual report) were responded to in the beginning of 2013 (see table in Annex for statistics).

1.4 Subject of requests

- Of all documents requested in 2013, the most requested types of documents were: adopted texts (10%); tabled texts (8.5% of requests); Bureau documents (5.5%); correspondence (5%); MEPs' documents (5%); administrative documents, namely related to infrastructure and finance (4.5%); petitions (3%) and verbatim report of proceedings (2%).
- A steady share of requests made in 2013 concerned unspecified documents (e.g. requests made for "all documents related to"....) at around 12.5% of all requests. The share of requests for non-tabled Members' documents (agendas and minutes of meetings with interest representatives, correspondence etc.) also remains stable at around 5% of all requests. In line with Rule 104 of EP Rules of Procedure, such documents are not considered Parliament documents. These types of requests are not reflected in the statistics on the number of documents being requested.
- Requests for not previously disclosed documents concerned Parliament legal opinions (36% of requests for non-disclosed documents), Bureau notes (50% of requests for non-disclosed documents) and other internal reports, notably reports on *trilogue* meetings (Rule 70(4) of EP Rules of procedure) (22% of requests for non-disclosed documents). Concerning this last category of documents, at the end of 2012 Parliament voted in plenary to amend rule 70 of its rules of procedure²⁵ and improve the levels of transparency of *trilogue* negotiation procedures. Parliament's negotiating teams must now report back to the responsible committee on the progress and outcome of all *trilogue* negotiations. While currently there is no unique form of reporting (reports can be made orally at committee meetings - and are reproduced in minutes - or via minutes or summaries of meetings), requests for such documents are increasing. Parliament released the documents in all cases, which is a strong move towards further transparency of these new decision-making procedures.

2. Application of exceptions to the right of access

²⁵ P7_A(2012)0281

2.1. Positive response rate

Parliament released 84 not previously disclosed documents to the public in 2013, following initial requests made by 36 applicants. The positive response rate at the initial stage in 2013 was 95%. Parliament traditionally has a strong positive response rate, with 87% in 2012 and 88% in 2011.

2.2. Refusals and their justification

In 2013, at the initial stage of requests, Parliament refused access to 5 documents on the basis of Article 4 of Regulation (EC) No 1049/2001 and gave partial access to 3 documents. Total access was refused essentially to documents containing personal data or where a need was ascertained to protect the privacy and integrity of one or more individuals. Parliament also gave protection to its internal administrative proceedings, regarding staff appointments.

One confirmatory application was received in 2013, following an initial refusal to grant access to documents (Article 8 of Regulation (EC) No 1049/2001). In this case, Parliament's initial refusal was fully confirmed on two grounds: the exception provided for under Article 4.3 of the Regulation with regard to protecting internal decision-making procedures on administrative decisions (staff appointments) and the exception provided for under Article 4.1 (b) regarding the protection of privacy and integrity of the individual (personal data), confirming trends from previous years.

Finally, Parliament is currently (first quarter of 2014) responding to two confirmatory applications, where the initial application was introduced in 2013. These requests concern documents containing personal data and commercially sensitive information.

3. Profile of applicants, language and geographical spread

In general, academics and researchers continue to represent the largest share of applicants, 43% in 2013 (compared with 34% in 2012). The next largest category of applicants was other civil society groups (18%), followed by those applicants who preferred not to provide information about their background (15%). English is by far the most frequent language used, representing over half of requests, while the largest share of applications came from applicants based in Belgium.

Of the applicants from civil society (18%), almost 80% were from the business sector; 16% from environmental organisations and 16% from other interest groups. The proportion of requests from lawyers (who are not considered as civil society for statistical purposes) remains more or less stable at 9%.

Applicants requesting documents not previously disclosed fell into the following categories: 36% other; 36% researchers; 14% lawyers, 5% business sector, 5% from the media and 4% from citizens.

As regards the geographical spread of applications (EU Member States), the pattern for 2013 is very similar to that seen in previous years; 29% of applications were made by individuals or organisations based in Belgium, followed (in order of size) by Germany (15%), France (10%), the United Kingdom (6%), Netherlands (6%), Italy (5%), and Spain (5%). Applications from third countries grew somewhat and accounted for approximately 10% of the total.

The language most frequently used for applications in 2013 was English (53%), which is on the increase compared with previous years, followed by French (14%), also on the increase, German (12%) which has dropped slightly and Spanish (7%). This reinforces the trend

observed during recent years of the growing importance of English as the language of communication.

V. COMPLAINTS TO THE EUROPEAN OMBUDSMAN, LEGAL APPEALS AND CASE LAW

Regulation (EC) No 1049/2001 provides a clear procedure²⁶ for citizens to appeal against decisions by the EU institutions to refuse access to documents. While Parliament has only seen four such cases end up in the General Court concerning its own decisions to date, a considerable amount of jurisprudence exists relating to the regulation which can assist in terms of interpretation of its meaning. A citizen, who has been refused access to a document after a confirmatory - or second - request, may either complain to the European Ombudsman, or appeal to the General Court.

1. Complaints lodged with the European Ombudsman

Nikiforos Diamandouros was replaced by Emily O'Reilly as EU Ombudsman on 30 September 2013. At one of his final presentations in May 2013, before the EP Petitions Committee, Mr. Diamandouros praised the EU institutions for recent progress on transparency, noting that complaints about a lack of transparency had dropped by 36% in 2012.

Shortly after taking up her new post, Emily O'Reilly, the former Irish Ombudsman, launched an own initiative inquiry (**Case OI/6/2013/KM**) into the respect of time limits for dealing with initial and confirmatory applications to the EU institutions for access provided for under Regulation (EC) No 1049/2001. Parliament generally responds to requests for access to documents within 5 working days, and in only 6 cases in 2013 did the institution request an extension of the 15 working-day deadline.

One complaint was lodged with the Ombudsman against Parliament in 2013 with regard to access to documents requests, but the Ombudsman found no grounds for further action.

With regard to earlier complaints, the Ombudsman published a decision in early 2014 welcoming Parliament's observations and statement following a further remark received in complaint (**2393/2011/RA**). Parliament had stated that it would seek to ensure that future trade negotiations, and in particular the on-going negotiations with the US on the *Transatlantic Trade and Investment Partnership* (TTIP), were more transparent and open for stakeholder involvement. The original complaint was submitted following Parliament's refusal to grant access to documents on negotiations of the Anti-Counterfeiting Trade Agreement (ACTA) (see Parliament's access to documents report 2011). The complainant had alleged that Parliament failed to put forward valid justifications under Regulation (EC) No 1049/2001 for not providing access to the documents in question.

As yet, no decision has been made by the Ombudsman relative to a related complaint lodged against Parliament in February 2012 (**0262/2012/OV**) concerning the range of documents provided in Parliament's register. The complainant has alleged that Parliament fails to list in its register all existing documents in its possession.

2. Judicial review

2.1. Judgments regarding Parliament

²⁶ Article 8, paragraph 3

During the period of reference, no **Court judgments** were issued on Parliament decisions concerning access to documents. However Parliament intervened in support of Access Info Europe, in **Case C-280/11 P**, *Access Info Europe / Council of the European Union* (see below for more information), which is likely to have a considerable effect on the transparency of national and EU legislative procedures.

2.2. Judgments regarding other EU institutions

Thirteen judgments were issued concerning access to documents during the period of reference (the orders and the conclusions of the Advocate-General are not cited) with regard to other institutions, of which ten concern the European Commission:

European Commission:

- Judgment of 15 January 2013 in **Case T-392/07**, *Guido Strack / European Commission*, concerning access to the documents relating to the decisions rejecting a confirmatory application for access to administrative documents, as well as to documents relating to a Court case;
- Judgment of 19 March 2013 in **Case T-301/10**, *Sophie in 't Veld / European Commission*, concerning documents relating to the draft international Anti-Counterfeiting Trade Agreement (ACTA) and the exception relating to the protection of the public interest with regard to international relations;
- Judgment of 21 March 2013 in **Case F-112/11**, *Raffaele Dalmasso / European Commission*, concerning an alleged infringement of the right to access to documents;
- Judgment of 7 June 2013 in **Case T-93/11**, *Corporate Europe Observatory / European Commission*, concerning the exception relating to the protection of the public interest in the field of international relations;
- Judgment of 11 July 2013 in joint **Cases T-104/07 and T-339/08**, *Belgische Vereniging van handelaars in- en uitvoerders geslepen diamant (BVGD) / European Commission*, concerning access to documents and agreements and abuse of a dominant market position;
- Judgment of 13 September 2013 in **Case T-111/11**, *ClientEarth / European Commission*, concerning the exception relating to the protection of the purpose of inspections, investigations and audits and compatibility with the Aarhus Convention;
- Judgment of 8 October 2013 in **Case T-545/11**, *Greenpeace Nederland and Pesticide Action Network Europe (PAN Europe) / European Commission*, concerning documents relating to the commercial interests of a natural or legal person;
- Judgment of 25 October 2013 in **Case T-561/12**, *Jürgen Beninca / European Commission*, concerning refusal to grant access to a document drawn up by the Commission in the context of the merger between Deutsche Börse and NYSE Euronext and the exception relating to the protection of the decision-making process;
- Judgment of 14 November 2013 in joint **Cases C-514/11 P and C-605/11 P**, *European Commission / Liga para a Protecção da Natureza (LPN)*, concerning refusal of access to documents relating to the pre-litigation stage of infringement procedures;
- Judgment of 13 December 2013 in **Case T-165/12**, *European Commission / European Dynamics Luxembourg*, concerning access to the reasons of rejection of applicants' tender in a tendering procedure.

European Council:

- Judgment of 12 September 2013 in **Case T-331/11**, *Leonard Besselink / Council of the European Union*, concerning the exception relating to the protection of the public interest as regards international relations and the Draft Council Decision authorising the Commission to negotiate the Accession Agreement of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms;
- Judgment of 17 October 2013 in **Case C-280/11 P**, *Access Info Europe / Council of the European Union*, concerning the protection of the institutions' decision-making process and the identity of Member States which put forward proposals;

European Food and Safety Authority (EFSA):

- Judgment of 29 January 2013 in joint **Cases T-339/10 and T-532/10**, *Cosepuri Soc. Coop. pA / European Food and Safety Authority (EFSA)*, concerning the exception relative to the protection of the commercial interests of a third party.

More detailed information concerning the various actions and judgments can be found in the annual reports of the Commission²⁷ and the Council²⁸, as well as on the Court of Justice of the European Union website²⁹.

VI. INTERINSTITUTIONAL COOPERATION

In 2013, the administrative services responsible for implementing Regulation (EC) No 1049/2001 in the three Institutions liaised regularly on legal and management matters relating to the implementation of the regulation.

Several consultation meetings concerning possible interpretations of case-law in this area took place during the year, and it is foreseen to continue such meetings at regular intervals. Article 15(1) of Regulation (EC) No 1049/2001 stipulates that '*the institutions shall develop good administrative practices with a view to facilitating the exercise of the right of access guaranteed by the Regulation*'.

The interinstitutional committee provided for in the second paragraph of that article did not meet at political level in 2013.

²⁷ http://ec.europa.eu/transparency/access_documents/reports_en.htm

²⁸ <http://www.consilium.europa.eu/documents/policy-regarding-access-to-council-documents/basic-texts-on-transparency?lang=en>

²⁹ http://curia.europa.eu/jcms/jcms/j_6/

**STATISTICS ON REQUESTS FOR ACCESS TO DOCUMENTS
AND ON WEBSITE CONSULTATION
(SITUATION ON 31/12/2012)**

1. TOTAL NUMBER OF DOCUMENTS REQUESTED

2010	2011	2012	2013
1139	1161	777	610

**2. NUMBER OF NOT PREVIOUSLY DISCLOSED DOCUMENTS REQUESTED
(INITIAL APPLICATIONS) & POSITIVE RESPONSE RATE**

	2010	2011	2012	2013
Requested	268	289	166	89
Positive response rate	91%	88%	87%	95%

3. NUMBER OF CONFIRMATORY APPLICATIONS RECEIVED

2010	2011	2012	2013
5	4 ³⁰	6 ³¹	1

4. COMPLAINTS TO THE OMBUDSMAN

2010	2011	2012	2013
1	1	1	0

³⁰ In one case, the initial refusal was overturned (total access granted)

³¹ In one case, wider access was granted following the confirmatory application

5. REFUSAL PURSUANT TO ARTICLE 4 OF REGULATION 1049/2001

Refusal	2010 ³²	2011 ³³	2012 ³⁴	2013 ³⁵
	%	%	%	%
ARTICLE 4(1)(a) PROTECTION PUBLIC INTEREST (international relations & security reasons)	13	25	16	-
ARTICLE 4(1)(b) PROTECTION PRIVACY AND INTEGRITY OF THE INDIVIDUAL	25	16	32	50
ARTICLE 4(2) first indent PROTECTION COMMERCIAL INTEREST	8	4	11	-
ARTICLE 4(2) second indent PROTECTION COURT PROCEEDINGS AND LEGAL ADVICE	13	15	11	-
ARTICLE 4(2) third indent PROTECTION INSPECTIONS AUDITS	4	5	11	-
ARTICLE 4(3) PROTECTION INSTITUTIONS' DECISION-MAKING PROCESS	38	35	21	50

6. GEOGRAPHICAL SPREAD OF MAJORITY OF APPLICANTS

Country	2010 %	2011 %	2012 %	2013 %
BELGIUM	21	19	23	29
GERMANY	12	12	15	15
FRANCE	14	8	9	10
THIRD COUNTRIES	11	7	8	10
UNITED KINGDOM	6	12	8	6
THE NETHERLANDS	5	6	7	6
SPAIN	4	10	7	5
ITALY	5	7	7	5

³³ In 2010 access was refused to 16 documents and partial access was granted to 8

³³ In 2011 access was refused to 14 documents and partial access was granted to 19

³⁴ In 2012 access was refused to 8 documents and partial access was granted to 14

³⁵ In 2013 access was refused to 5 documents and partial access was granted to 6

7. PROFESSIONAL PROFILE OF APPLICANTS

Professional profile	2010 %	2011 %	2012 %	2013 %
CIVIL SOCIETY (Interests groups, Industry, NGOs, etc.)	20	10	17	18
JOURNALISTS	7	6	3	5
LAWYERS	16	10	11	9
ACADEMIC WORLD University Research	38	45	33	43
ACADEMIC WORLD Libraries	2	2	2	2
PUBLIC AUTHORITIES (other than EU institutions)	9	1	6	7
MEP (MEP assistant)	2	2	0	1
OTHERS (Pensioners, unemployed, etc.)	5	23	27	15

8. LANGUAGES MOST USED BY APPLICANTS

LANGUAGE	2010 %	2011 %	2012 %	2013 %
EN	46	49	52	53
FR	24	14	12	14
DE	11	10	13	12
ES	7	8	7	7

9. CONSULTATION OF THE REGISTER WEBSITE

A. Documents referenced in the register

DOCUMENTS	DOCUMENTS (EP document references)	FILES (all language versions)	GROWTH (number of document references year on year)
DECEMBER 2010	362 217	2 386 485	+ 16.6%
DECEMBER 2011	414 169	2 825 361	+ 14.3%
DECEMBER 2012	463 689	3 097 165	+ 12%
DECEMBER 2013	508 436	3 372 128	+ 10%

B. Consultation of the register's webpage

VISITS	ANNUAL VISITS	MONTHLY VISITS	GROWTH
2011³⁶	110 274	9 870	-
2012	166 104	13 842	+ 40%
2013	253 858	21 155	+ 53%

³⁶ Due to the new register's webpage put in place on 27/01/2011, all statistics relating to consultations in 2011 cover the period 1/02/11 - 31/12/11