FOREWORD

The Parliament, the Council and the Commission have applied Regulation (EC) No 1049/2001 on public access to documents in their possession since 3 December 2001.

In accordance with Article 17(1) of that Regulation, each institution is to 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.


ON METHODOLOGY

Parliament’s 2022 annual report is prepared along the following methodology:

− Figures on requested documents refer to specified documents only;
− Partial access decisions are counted as positive responses;
− Confirmatory applications may relate either to initial decisions refusing access or to initial decisions granting partial access;
− It is the day of registration of the initial application that determines the year of the corresponding confirmatory application.
INDEX

Executive Summary ............................................................... 4
CHAPTER I Applications for access to documents pursuant to Regulation (EC) No 1049/2001 in 2022 ................................. 5
  A) Parliament's public register of documents ................................................................. 5
  B) Figures on applications for public access to documents.............................................. 6
  C) Applicants' self-declared background ....................................................................... 9
CHAPTER II Trends and specific issues ................................. 12
  A) Applications for access to documents related to Members ........................................ 12
CHAPTER III Complaints Lodged with the European Ombudsman or the European Data Protection Supervisor and Court cases ........................................................................ 14
  A) Ombudsman ............................................................................................................. 14
    Complaint 1564/2022, Members' correspondence ....................................................... 14
  B) Judicial Review ......................................................................................................... 14
    Case T-174/21, Agrofert v Parliament ......................................................................... 14
    Case T-421/17 (Appeal Case C-761/18 P), Leino-Sandberg v Parliament ...................... 15
    Case T-375/22, Izuzquiza and Others v Parliament ....................................................... 15
  C) European Data Protection Supervisor ..................................................................... 16
    Complaint C 2021-0807, publication of personal data ............................................... 16
Final Remarks ........................................................................ 17
(Article 17 of Regulation (EC) No 1049/2001)

Executive Summary

Figures

- By 31 December 2022, the register’s database contained 874,428 references, compared with 850,174 by the end of the previous year.
- In 2022, Parliament’s public register website was consulted by 25,415 different users. During the same period, Parliament received, via the online application form, e-mail or letter, 658 applications, an increase of 32% compared to 2021.
- Out of the 658 applications, 199 involved a disclosure of documents not previously disclosed to the public.
- The overall positive response rate was 96% in 2022.
- Parliament refused access in 24 cases, mainly in connection with applications for administrative documents and documents related to Members of the European Parliament.
- In 66 instances, Parliament provided partial access to the requested documents. This figure includes 34 identical applications submitted in the course of a campaign.
- With 11 confirmatory applications in the course of the year, the confirmatory application rate decreased by a third compared to 2021.

Trends

- Applications for documents related to Members, such as meetings and correspondence with lobbyists and Members’ expenses and allowances, accounted for 6% of cases and 42% of refusals.
- In 2022, applicants requested a number of documents concerning the decisions of Parliament’s governing bodies, among them 73 Bureau notes on the funding of political parties and foundations.
- The strong interest shown in past years for legislative procedures and, in particular, inter-institutional legislative negotiations continued in 2022, with requests related to trilogues or committee work in general making up roughly half of all applications.
CHAPTER I
Applications for access to documents pursuant to Regulation (EC) No 1049/2001 in 2022

The figures and statistics discussed in this section allow for the identification of trends in the field of public access to documents. They provide a broad picture of Parliament’s implementation of Regulation (EC) No 1049/2001 to the public.

A) Parliament’s public register of documents

Parliament’s public register of documents was set up in 2002 with a view to further increasing transparency and making it easier for the public to access the institution’s documents, in accordance with Regulation (EC) No 1049/2001. It gathers references to directly accessible documents, mostly legislative documents, and, where possible, other categories of documents. It also hosts a portal for the submission of applications for public access to the documents that are not directly accessible.

With an increase of almost 3% compared to the previous year, by 31 December 2022, the number of document references in the register’s database reached 874 428 (representing 5 721 798 documents, taking several language versions into account). No sensitive document, within the meaning of Article 9 of Regulation (EC) No 1049/2001, was recorded in the public register.

(Fig. 1) Evolution of the Parliament’s public register of documents

The Public Register of Documents’ website was visited 25 218 times by 25 415 different users. This figure does not take into consideration visits via other platforms linked to the

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1 Due to a platform migration during the summer months, these values are likely to be higher; and therefore the actual values are not final.
register’s database, such as parliamentary committees’ platforms and Parliament’s Think Tank webpages.

Practically all documents in Parliament’s public register of documents can be directly downloaded via the website, in line with Article 12 of Regulation (EC) No 1049/2001, which provides that the institutions are to make their documents directly accessible as much as possible. Documents that cannot be consulted directly can be made available upon request via the online application form or by e-mail.

B) Figures on applications for public access to documents

In 2022, Parliament received overall 658 applications through the online application portal, by e-mail or letter. There were 354 applications concerning at least one specified document, while the remaining 304 requests did not concern any specific document. 288 applications led to the identification of documents that were already publicly available, while 221 applications concerned previously unpublished documents, 199 of which led to the publication of documents on the register. 259 applications were filed via public platform.

Pursuant to Article 4(4) of Regulation (EC) No 1049/2001, Parliament was consulted by other institutions with regard to 19 applications for access to documents that were issued, at least in part, by Parliament. Three of those consultations were for documents concerning inter-institutional legislative negotiations. Inversely, Parliament handled more than 88 applications which required consultation with other institutions as it was not clear to Parliament that the requested documents, established by or originating at least in part in another institution, could or could not be disclosed. Most of those applications concerned trilogue documents.

A majority of applications received over the year concerned access to legislative and committee documents (58%), administrative (19%) documents, as well as documents related to Members and Members’ activities (8%).

(Fig. 2) Types of documents requested

![Bar chart showing the distribution of documents requested]

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In terms of notable subcategories, 19% of all applications received over the year sought public access to "trilogue documents," while 9% of all applications concerned documents of other institutions and 6% concerned documents directly related to Members. Among applications regarding administrative documents, requests for access to Bureau notes on the funding of political parties and foundations made up just 1% of all applications, while leading to more than 10% of documents published.

Out of the 658 applications received in 2022, Parliament responded positively in 633 instances. This figure includes 66 cases in which access to the requested documents was partially granted.

(Fig. 3) Number of applications and positive replies

![Graph showing number of applications and positive replies from 2017 to 2022.]

221 out of 658 applications involved documents not previously disclosed to the public. Of those, 199 applications led to the publication of documents on the public register.

Most of the applications for previously undisclosed documents concerned documents of committees and delegations (42%), administrative documents and documents of governing bodies (38%) and trilogue negotiations (8%).
With regard to applications registered in 2022, 90 decisions in accordance with Article 12(3) of the Bureau Decision on rules governing public access to European Parliament documents\(^3\) were taken at initial level refusing public access or granting partial access, respectively, in 24 and 66 instances.

The decisions refusing public access or granting partial access concerned a wide variety of topics and documents. Eight decisions concerned documents that might exist in Members’ private offices but were not held by Parliament’s administration and five concerned the allowances at the disposal of Members of the European Parliament. 72 decisions concerned administrative documents, sixteen of which related to documents of Parliament’s governing bodies.

There were eleven confirmatory applications\(^4\). In nine cases, the institution confirmed its initial position, while in two cases full access was granted at confirmatory level.

In ten cases, refusal to grant access was triggered by the fact that the correspondent application was seeking access to documents not held by Parliament within the meaning of Article 2(3) of Regulation (EC) 1049/2001. Otherwise, the decisions relied on several exceptions, most prominently the protection of the privacy and the integrity of individuals (point (b) of Article 4(1) of Regulation (EC) No 1049/2001), the protection of commercial interests of third parties (first indent of Article 4(2) of Regulation (EC) No 1049/2001), the protection of the public interest (point (a) of Article 4(1) of Regulation (EC) No 1049/2001) and the protection of Parliament’s decision-making process (paragraph 3 of Article 4 of Regulation (EC) No 1049/2001).

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\(^4\) Confirmatory applications can be made in relation to total or partial refusals asking the institution to reconsider its position (Article 7(2) of Regulation (EC) No 1049/2001).
In conclusion, Parliament’s overall positive response rate remained high at 96%, while Parliament granted access with regard to 90% of applications concerning documents not previously available to the public.

C) Applicants’ self-declared background

Academics and researchers continued to represent also in 2022 the largest share of applicants with over 33% of applicants pertaining to this category, followed by lawyers, who accounted for almost 23% of applications. Journalists accounted for 12% of applicants in 2022.

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5 Data on applicants’ profiles are gathered on the basis of the information provided by applicants in their applications. However, as Regulation (EC) No 1049/2001 does not require applicants to provide information about their identity, a certain number of applicants indeed choose not to reveal their occupation; this is the case in particular for applications submitted by email.
The geographical distribution of applications among the Member States, as far as Parliament was made aware of it, changed. While no mention of the country of residence of the applicant was made in 38% of applications (undeclared), around 15% of all applications were from applicants who stated being based in Germany, 9% in Spain, 7% in France, and other countries accounted for 31%.
English remained the language most frequently used for applications (67%), followed by German (17%), Spanish (6%), French (4%), and others (6%).
CHAPTER II
Trends and specific issues

In 2022, a fifth of applications concerned documents related to interinstitutional legislative negotiations, down from a third. Given that 2021 had seen a threefold increase in such applications, these figures nonetheless continue long-running trends. Members’ meetings with lobbyists and Members’ expenses, as well as documents of Parliament’s governing bodies, in particular the Bureau, are the focus of a smaller number of applications, which are however frequently lodged by journalists.

A) Applications for access to documents related to Members

In 2022, Parliament received 39 applications related to Members, leading to ten refusals, five confirmatory applications and 29 positive responses, including four cases in which partial access was granted. As was the case in previous years, those applications chiefly concerned the allowances Members have at their disposal to cover the expenditure they incur in the performance of their parliamentary duties as well as Members’ contact with lobbyists, in particular in the context of Members’ meeting declarations.

Compared to last year, there was a marked increase in applications related to lobbying on a particular legislative procedure. In this sense, applicants frequently ask for correspondence and input Members have received from interest representatives. However, as lobbyists tend to contact Members directly and without involving Parliament’s administration, Parliament is often unable to identify any documents related to specific lobbying activities beyond the meeting declarations found on Members’ websites and the voluntary legislative footprint listing outside interests that rapporteurs may annex to their reports. While some applicants have shown themselves dissatisfied by the inability of Parliament’s administration to provide access to Members’ private offices and documents, this is a direct consequence of Members’ independence and their responsibility towards voters.

Regarding Members’ expenses and remuneration, the number of application liable to create a significant administrative burden and concerning vast amounts of individual expense-related documents, such as receipts, train tickets and applications for defrayal, has decreased, while there has been a continued interest in specific types of allowances, in particular the General Expenditure Allowance and related decision-making bodies.

B) Applications for access to documents of Parliament’s governing bodies

A significant number of applications every year concern documents of the Bureau or other governing bodies such as the Conference of Presidents. In many cases, such as the annual funding exercise regarding European political parties and foundations or the recently adopted changes to the Implementing Measures to the Members’ Statute, the requested documents relate to decisions of the body in question and are referenced in the relevant meeting minutes, which are publicly available. In this sense, in 2022, 73 notes for the attention of the Members of the Bureau on the financing of political parties and foundations were partly or fully disclosed.
In such cases, there can be a tension, on the one hand, between the visibility of the documents requested, the relative prominence of the issues and the associated need for transparency, and, on the other hand, the need for Parliament’s governing bodies to receive frank and complete advice and to freely consider and deliberate on sensitive issues without facing undue outside pressure and attempts to influence their decision-making. As a consequence, and in order to strike an appropriate balance, careful case-by-case assessments are especially important with regard to applications for public access to documents of Parliament’s governing bodies.

C) Applications for access to trilogue documents

With a fifth of all applications concerning documents from interinstitutional legislative negotiations, the public interest in legislative transparency continues to be strong. Unlike in past years, when requests have more often concerned older legislative procedures, many applications for public access in 2022 have concerned recent or ongoing procedures, in some cases even before the start of trilogue negotiations. That change has coincided with a smaller number of trilogue documents published and a shift towards a larger proportion of requests being lodged by civil society relative to those coming from academia. Nonetheless, the steady stream of applications and a stronger focus on internal preparatory documents rather than traditional trilogue documents indicate that the marked public interest in legislative procedures is likely to continue to be reflected in applications for public access.

Trilogue documents are typically multicolumn tables contain the starting negotiating positions of the Commission, the Council and Parliament as well as provisionally agreed compromises and comments on the negotiations’ progress. As in previous years, all identified trilogue documents have been disclosed and published via the European Parliament’s Public Register of Documents, even if sometimes only after extensive consultations within and between the concerned institutions.

Since trilogue multicolumn tables are authored in a joint setting, the institution that is handling an application for access to such documents may need to consult the other two institutions with a view to determining whether the table can be disclosed or if it or parts thereof need to be refused on the ground of an exception to the right of access. In June 2022, the original Memorandum of Understanding of 2002 between the services of the European Parliament, the Council and the Commission regarding public access to documents, was replaced by an updated version, which has already improved the quality of consultations concerning documents identified in light of applications for public access, in particular in the context of applications for trilogue documents.

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6 The relevant register references are modelled on the procedure number and have the format NEGO_CT(yyyy)xxxx, with yyyy being the year and xxxx the sequential number of the procedure.
CHAPTER III
Complaints Lodged with the European Ombudsman or the European Data Protection Supervisor and Court cases

Complaints to the European Ombudsman and court proceedings brought in relation to Parliament’s implementation of Regulation (EC) No 1049/2001 can be an opportunity for the administration to fine-tune its practice in access to documents matters, independently from the outcome of the procedure at stake. This chapter reports on the complaint cases dealt with by the Ombudsman and EDPS in 2022, two closed court cases and a case pending before the General Court.

A) Ombudsman

Complaint 1564/2022, Members’ correspondence

The complaint concerned an application for public access to correspondence between a Member and a lobby organisation. As is often the case for such applications, Parliament was unable to identify any documents related to the application and informed the applicant accordingly. In its confirmatory decision, Parliament explained the circumstances under which it had conducted its search for documents falling under the scope of the application, notably including the fact that Parliament’s administration has no access to documents held in the private offices of Members. Indeed, under paragraph 2 of Rule 122 of Parliament’s Rules of Procedure, and in light of its practical implementation, Parliament as an institution only disposes of Members’ documents once they have been received by its General Secretariat.

The complainant took issue with Parliament’s response and, in essence, argued that not only Parliament as an institution, but also its Members acting as independent politicians should be subject to transparency requirements.

The case is currently pending before the Ombudsman.

B) Judicial Review

B.1) Cases closed in 2022

Case T-174/21, Agrofert v Parliament

In March 2021, the Czech company Agrofert filed an action for annulment of the Parliament’s decision to refuse public access to documents related to the Commission’s audit of the management and control systems in place in the Czech Republic to avoid conflicts of interest under Regulation (EU) No 1303/2013. Parliament’s decision was taken in close consultation with the European Commission, and based on the grounds that granting public access would undermine the purpose of the Commission’s investigation concerning potential infringements of Union law by the Czech Republic.

The applicant has pleaded that Parliament has failed to establish that public access to the relevant documents would pose any risk of specific and actual harm to the investigation in
question, while disregarding an overriding public interest in the disclosure of those documents.

On 28 September 2022, the General Court held that, as the Commission’s investigation was ongoing at the time, Parliament’s refusal was justified.

**Case T-421/17 (Appeal Case C-761/18 P), Leino-Sandberg v Parliament**

In July 2017, a professor of EU law filed an action for annulment of the Parliament’s decision to refuse access to a Parliament decision of 8 July 2015 granting partial access to trilogue documents, on the grounds that granting public access to the latter decision would have undermined the ongoing court proceedings in case **T-540/15 - De Capitani v Parliament**, in which that decision was being challenged.

In 2018, the General Court held that, since the applicant had eventually obtained the requested document, albeit by way of disclosure by a third party, the action had become devoid of purpose and that the applicant therefore no longer had an interest in its adjudication. The applicant appealed that order before the Court of Justice, asserting errors of law on both of those conclusions.

In January 2021, the Court of Justice set aside the order under appeal and referred the case back to the General Court. Specifically, it upheld the ground of appeal whereby the applicant asserted that the action had not become devoid of purpose. The Court of Justice took the view that since the applicant had only obtained access to the document at issue by way of disclosure by a third party and since Parliament continued to refuse to grant access to that document, it could neither be considered that the applicant had obtained access within the meaning of Regulation (EC) No 1049/2001, nor that the applicant no longer had any interest in seeking the annulment of the decision.

On 28 September 2022, the General Court held that public access to a confirmatory decision could not undermine the principle of equality of arms and annulled Parliament’s decision to refuse access. Consequently, Parliament had to take a new decision on the applicant’s confirmatory application, which it did on 9 January 2023, granting access to the requested document.

**B.2) New Cases**

**Case T-375/22, Izuzquiza and Others v Parliament**

In December 2021, transparency activists applied for public access to all documents related to all allowances granted to a specific Member during a period of five months. Parliament refused access to the relevant documents as the applicants did not successfully demonstrate a specific purpose in the public interest that would require the transfer of the associated personal data.

Specifically, the purposes put forward by the applicants, that is the need to better understand and be able to scrutinise payments received by the Member in question, could not outweigh that Member’s right to privacy, given the fact that comprehensive information on Members’ salary and allowances is publicly available, and given the internal and external controls that are in place to monitor the correct implementation of the rules establishing Members’ financial and social entitlements.

The case is currently pending before the General Court.
C) European Data Protection Supervisor

Complaint C 2021-0807, publication of personal data

On 16 March 2022, the European Data Protection Supervisor (EDPS) requested Parliament to comment on a data subject complaint related to an invitation to attend a public committee meeting (case C 2021-0807). That invitation, as disclosed in March 2021 following an application for public access, contained the data subject’s name and professional email address, to the publication of which the data subject objects. In its response of May 2022, Parliament communicated its view that, in view of its obligation to provide full public access to documents in cases where no exception to disclosure applies, no data breach had occurred, given that the personal data in question were either related to a public appearance of the data subject before one of Parliament’s committees or otherwise already in the public domain.

The case is pending before the EDPS.
**Final Remarks**

Whether the strong growth in applications in past years is due to an increased interest in Parliament's activities, or rather to higher expectations for the transparency with which they are conducted, the associated rise in public engagement with Parliament is a welcome development for an institution committed to the values enshrined in paragraph 3 of Article 10 of the Treaty on European Union according to which “every citizen shall have the right to participate in the democratic life of the Union” and “decisions shall be taken as openly and as closely as possible to the citizen”.