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 2023 annual report is prepared along the following methodology:

− 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 2023 ................................. 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 1264/2022/PB, Members’ correspondence ........................................ 14
      Complaint 53/2023/NK, Voluntary Pension Fund .................................................. 15
      Complaint 253/2023/MIK, Digital Markets Act ...................................................... 15
   B) Judicial Review ......................................................................................... 15
      Case T-1031/23, Kaili 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
Executive Summary

Figures

- By 31 December 2023, the register’s database contained 898,267 references, compared with 874,428 by the end of the previous year.
- In 2023, Parliament's public register website was consulted by 14,364 different users. During the same period, Parliament received, via the online application form, e-mail or letter, 645 applications, similar to the year 2022, when Parliament received 658 applications.
- Out of the 645 applications, 141 involved a disclosure of documents not previously disclosed to the public.
- The overall positive response rate remained stable at 96% in 2023. On average, applications were handled in less than 8 working days.
- Access had to be refused in 24 cases, mainly in connection with applications for administrative documents and documents related to Members of the European Parliament.
- In 24 instances, Parliament provided partial access to the requested documents.
- With 16 confirmatory applications in the course of the year, the confirmatory application rate increased over 2022.

Trends

- Applications for documents related to Members, such as meetings and correspondence with interest representatives and Members’ expenses and allowances, almost doubled and led to the second largest number of documents disclosed, after trilogue documents.
- The strong interest shown in past years in legislative procedures and, in particular, inter-institutional legislative negotiations continued in 2023, with requests related to trilogues or committee work in general, again making up roughly half of all applications.
CHAPTER 1
Applications for access to documents pursuant to Regulation (EC) No 1049/2001 in 2023

The figures and statistics outlined 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 about 3% compared to the previous year, by 31 December 2023, the number of document references in the register’s database reached 898,267 (representing 5,941,401 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 28,812 times by 14,364 different users. This figure does not take into consideration visits via other platforms linked to the 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 2023, Parliament received overall 645 applications through the online application portal, by e-mail or letter. There were 302 applications concerning at least one specified document, while the remaining 343 requests did not concern any specific document. 336 applications led to the identification of documents that were already publicly available, while 165 applications concerned previously unpublished documents, 141 of which led to the publication of documents on the register. 141 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 44 applications for access to documents that were issued, at least in part or fully, by Parliament. Several of those consultations were for documents concerning inter-institutional legislative negotiations. Conversely, Parliament handled more than 34 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 (291 applications), administrative (130 applications) documents, as well as documents related to Members (107 documents).

(Fig. 2) **Types of documents requested**

![Bar chart showing types of documents requested]

In terms of notable subcategories, 16% of all applications received over the year sought public access to "trilogue documents", while 13% of all applications concerned documents of other institutions and 12% concerned documents directly related to Members' obligations and activities. The ten largest applications, all of which concerned trilogue documents, accounted for close to half of all documents published.

Out of the 645 applications received in 2023, Parliament responded positively in 617 instances. This figure includes 24 cases in which access to the requested documents was partially granted.

(Fig. 3) **Number of applications and positive replies**

![Graph showing applications and positive replies from 2018 to 2023](image)

165 out of 645 applications involved documents not previously disclosed to the public. Of those, 141 applications led to the publication of 1738 documents on the public register, which represents a twofold increase over the previous year.

Most documents disclosed for the first time concerned trilogue negotiations (60%), Members' obligations and activities (13%), committee and delegation work (9%) and administrative procedures (9%).
With regard to applications registered in 2023, 48 decisions in accordance with Article 12(3) of the Bureau Decision on rules governing public access to European Parliament documents\(^2\) were taken at initial level refusing public access (24 instances) or granting partial access (also 24 instances).

The decisions refusing public access or granting partial access concerned a wide variety of topics and documents. Notably, 16 decisions concerned documents related to Members’ obligations and activities and 32 concerned administrative documents.

There were sixteen confirmatory applications\(^3\). In thirteen of these, the institution confirmed its initial position, while in three cases full access was granted. In two of those instances, documents were no longer protected at confirmatory level because the procedure they are a part of had concluded by that time.

In 17 cases, documents were at least partially refused in order to protect the privacy and the integrity of individuals (point (b) of Article 4(1) of Regulation (EC) No 1049/2001) while 16 cases concerned the protection of Parliament’s decision-making process (paragraph 3 of Article 4 of Regulation (EC) No 1049/2001). Otherwise, decisions limiting access relied on several exceptions, most prominently including the protection of investigations and audits (third indent of Article 4(2) of Regulation (EC) No 1049/2001) and the protection of commercial interests (first indent of Article 4(2) of Regulation (EC) No 1049/2001).

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\(^3\) 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 85% of applications concerning documents not previously available to the public.

C) Applicants' self-declared background

Academics and researchers continued to represent also in 2023 the largest share of applicants with over 28% of applicants pertaining to this category, followed by journalists, who accounted for almost 23% of applications. Lawyers accounted for 10% of applicants in 2023.

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4 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 26% of applications (undeclared), around 12% of all applications were from applicants who stated that they were based in Germany, 9% in France, 8% in Spain, and other countries accounted for 45%.

(Fig. 6) Professional background of applicants in 2023

(Fig. 7) Geographical distribution
English remained the language most frequently used for applications (65%), followed by German (13%), French (8%), Spanish (7%), and others (8%).
In 2023, more than half of all documents disclosed for the first time were related to interinstitutional legislative negotiations, up from a sixth, while the number of applications related to Members' obligations and activities nearly doubled.

A) Applications for access to documents related to Members

In 2023, Parliament received 78 applications related to Members' obligations and activities, resulting in 68 positive responses, including six cases in which partial access was granted, as well as ten refusals and four confirmatory applications. Those applications led to the disclosure of 231 documents. This represents almost twice as many such applications handled and four times as many related documents disclosed as in 2022. As in previous years, applications of this type mainly concerned the allowances that Members have at their disposal to cover the expenditure they incur in the performance of their parliamentary duties as well as Members' contact with interest representatives, in particular in the context of Members' meeting declarations.

This year, an increased number of applications concerned specific meetings with interest representatives, which the Members in question had declared on their individual pages on Parliament's website. As such, meetings are organised without the involvement of Parliament's administration, and as Parliament's administration has no access to documents held only in Members' offices, Parliament was unable to identify documents related to such meetings other than the meeting declarations themselves. While some applicants have shown themselves dissatisfied by the inability of Parliament's administration to provide access to documents held only in Members' offices, this is a direct consequence of Members' independence and their responsibility towards voters, who remain free to contact Members' offices outside the framework of Regulation (EC) No 1049/2001.

There was also an increase in the number of requests related to Members' expenses and allowances. The detailed publicly available information on the rules governing Members' expenses and remuneration, often mean that the disclosure of individual expense-related documents, such as receipts, train tickets and applications for defrayal, cannot be justified under the rules governing the protection of personal data.

B) Applications for access to trilogue documents

The 103 applications handled (16% of total) and 1055 documents published (60% of total) in relation to interinstitutional legislative negotiations show a continuing public interest in Parliament's legislative work. Such interest is not confined to applications for public access lodged with Parliament alone, but also with the other two institutions involved in the legislative process.

Trilogue documents are typically multicolumn tables that contain the starting negotiating positions of the Commission, the Council and Parliament as well as possible compromise texts and comments made during the negotiations. As in previous years, all requested
trilogue documents were disclosed and published via the European Parliament’s Public Register of Documents. 5 2023 saw a significant increase in the number of such documents disclosed compared to 2022, when Parliament handled 128 related applications and published 121 related documents.

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. Such consultations, together with the complexity and large size of many multicolumn tables, can increase response times for applications for public access. In 2023, the Parliament has responded on average in under 10 working days to applications for public access to documents from legislative negotiations.

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5 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; the relevant document type is 1.4.17.
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.

A) Ombudsman

Complaint 1264/2022/PB, Members’ correspondence

The complaint concerned an application for public access to correspondence between a
Member and an interest representative. 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 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
possesses 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 institution, but also its individual Members acting in their political capacity
should be subject to transparency requirements.

On 30 May 2023, the Ombudsman found no maladministration and recommended for
Parliament to establish guidance on how to draw the line between documents of
Parliament’s administration and those of its Members.

Parliament has, as a consequence, established the following guidance:

Where in a given case there is a particular reason to believe that certain documents are
about to be forwarded by the office-holder to the administration, the service should confirm
with the Member in question that no relevant documents are still due to be forwarded to
the administration.

Complaint 53/2023/NK, Voluntary Pension Fund

The complaint concerned an application for public access to a list of investments of the
Voluntary Pension Fund for Members, in light of which Parliament had refused access to a
management report in order to protect the VPF’s commercial interests. That management
report had been obtained coincidentally by Parliament in the context of technical assistance
(e.g. provision of meeting facilities). At the same time, the VPF, as an ASBL under
Luxembourgish law, is a private entity with which Parliament has no legal ties and whose
documents are not systematically held by Parliament.

The complainant argued that Parliament should provide access to the management report
in question, in particular in light of a risk of Parliament having to compensate for the fund’s
actuarial deficit. On 22 June 2023, the Ombudsman found no maladministration and suggested that Parliament provide the applicant with a different document containing a detailed list of the investments of the VPF. In its response of 30 August 2023, Parliament informed the Ombudsman that it does not hold such a detailed list and is therefore unable to provide it to the general public.

**Complaint 253/2023/MIK, Digital Markets Act**

The complaint concerned an application for public access to documents related to the trilogue negotiations on the Digital Markets Act, in light of which Parliament had granted access to a multi-column document. However, Parliament’s response had been given outside of the statutory time limit for a number of reasons, including an administrative error and the fact that the applicant had initiated a campaign that led to a significant number of applications for public access being lodged at the same time. The complainant was not satisfied with the time Parliament took to respond to the application, as this had not allowed them to follow negotiations as they unfolded. On 24 July 2023, the Ombudsman found that the delay in handling the complainant’s request constituted maladministration.

**B) Judicial Review**

**B.1) New Cases**

**Case T-1031/23, Kaili v Parliament**

In October 2023, Eva Kaili filed an action for annulment of the Parliament’s decision to refuse public access to documents concerning irregularities in the management, by Members of Parliament, of the allowances of accredited parliamentary assistants. Parliament’s decision was based on the grounds that granting public access would undermine the protection of court proceedings and legal advice, which the applicant disputes.

The case is pending before the General Court.

**B.2) Pending 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 necessitate 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 pending before the General Court.
C) European Data Protection Supervisor

Complaint C 2021-0807, publication of personal data

On 16 March 2022, 16 May 2023 and 15 November 2023, 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 responses of May 2022, September and December 2023, 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 the decision by the EDPS.