



Plenary sitting

B9-0162/2024

7.3.2024

MOTION FOR A RESOLUTION

to wind up the debate on the statement by the Commission

pursuant to Rule 132(2) of the Rules of Procedure

on the time the European Commission takes to deal with requests for public access to documents
(2023/2941(RSP))

Juan Fernando López Aguilar

on behalf of the Committee on Civil Liberties, Justice and Home Affairs

B9-0162/2024

European Parliament resolution on the time the European Commission takes to deal with requests for public access to documents (2023/2941(RSP))

The European Parliament,

- having regard to the Treaty on European Union (TEU), in particular Articles 1, 9, 10, 11 and 16 thereof,
 - having regard to the Treaty on the Functioning of the European Union (TFEU), in particular Articles 15 and 228 thereof,
 - having regard to the Charter of Fundamental Rights of the European Union, in particular Articles 41 and 42 thereof,
 - having regard to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents¹,
 - having regard to Regulation (EU, Euratom) 2021/1163 of the European Parliament of 24 June 2021 laying down the regulations and general conditions governing the performance of the Ombudsman’s duties (Statute of the European Ombudsman) and repealing Decision 94/262/ECSC, EC, Euratom²,
 - having regard to the decision of the European Ombudsman of 18 September 2023 on the time the European Commission takes to deal with requests for public access to documents (strategic inquiry OI/2/2022/OAM),
 - having regard to the special report of the European Ombudsman of 21 September 2023 in her strategic inquiry concerning the time the European Commission takes to deal with requests for public access to documents (OI/2/2022/OAM),
 - having regard to the case-law of the Court of Justice of the European Union and the European Court of Human Rights,
 - having regard to its resolution of 13 July 2023 on public access to documents – annual reports for the years 2019-2021³,
 - having regard to Rule 132(2) of its Rules of Procedure,
- A. whereas public access to the documents that the EU institutions hold is a fundamental right protected by the Charter of Fundamental Rights of the EU and the Treaties; whereas citizens must be able to exercise this right in a proactive way, as it enables

¹ OJ L 145, 31.5.2001, p. 43.

² OJ L 253, 16.7.2021, p. 1.

³ Texts adopted, P9_TA(2023)0295.

them to effectively exercise their right to scrutinise the work and activities of the EU institutions, bodies, offices and agencies, in particular the legislative process; whereas the EU institutions, bodies, offices and agencies must strive for the highest possible standards of good governance, accountability, openness, integrity and transparency in their functioning and the decision-making process; whereas these standards are a precondition for citizens' trust in the EU institutions;

- B. whereas the purpose of Regulation (EC) No 1049/2001 is to confer on the public the broadest possible right of access to the documents of the institutions in order to allow them to effectively exercise their right to scrutinise the work and activities of the EU institutions; whereas there is a need to ensure scrutiny methods that combine democratic oversight, control and monitoring activities; whereas the Commission is legally obliged to disclose documents promptly and in line with the clear time limits set out in Regulation (EC) No 1049/2001;
- C. whereas Article 228 TFEU and Article 3 of the Statute of the European Ombudsman mandate the Ombudsman to conduct inquiries when she finds grounds to do so, either on the basis of a complaint or on her own initiative, in particular in repeated, systemic or particularly serious instances of maladministration; whereas Article 4(3) of the Statute mandates the Ombudsman to forward a report to the European Parliament when the nature or the scale of the instance of the maladministration uncovered necessitates it;
- D. whereas numerous complaints received by the Ombudsman reveal that there have been significant delays before the Commission has decided on requests for public access to documents and has failed to comply with the time limits laid down by the relevant legislation; whereas the Ombudsman's special report in her strategic inquiry concerning the time the Commission takes to deal with requests for public access to documents shows that her suggestions have not been systematically implemented in practice and that the Commission has failed to implement the necessary changes to adhere to this demand; whereas on 28 November 2023, the Ombudsman presented her special report and assessment of the situation to the Committee on Civil Liberties, Justice and Home Affairs;
- E. whereas the Commission's response suggests that it processes access-to-document requests without any major issues; whereas in the Commission's reply⁴ concerning the Ombudsman's request for information on the time the Commission takes to deal with requests for public access to documents, it acknowledges the importance of handling requests in a timely manner and referred to the many challenges posed by the increase in the number of requests and their complexity; whereas the new Electronic Access to Commission Documents portal is clearly a positive step in terms of the Commission's interactions with those requesting access and of the publishing of all disclosed documents;

Access to the Commission's documents

1. Recalls that the right of public to access documents held by the EU institutions is set out

⁴Reply of the Commission of 28 March 2023 on a request for information from the European Ombudsman on the time taken by the European Commission to deal with requests for public access to documents.

in the Treaties and the Charter of Fundamental Rights and that it plays a crucial role in ensuring that the EU institutions operate in a transparent manner, which improves the legitimacy of and public trust in the EU, as well as its credibility;

2. Insists that the EU institutions, including the Commission, are obliged to implement Article 15(3) TFEU in line with democratic principles, in particular those laid down in Article 10(3) TEU and Article 42 of the Charter of Fundamental Rights; emphasises that transparency is fundamental to ensuring the accountability and democratic scrutiny of the EU institutions;
3. Recalls that an application for access to a document must be handled promptly; reiterates its concern that many of the complaints received by the Ombudsman are about delays in gaining access to requested documents and that the delayed access occurs in cases of significant public interest; deeply regrets the findings in the Ombudsman's special report of systemic and significant delays in access to Commission documents, in particular the fact that, in 85 % of the reviewed cases, the Commission did not take a decision within the legal time limits and that, in 60 % of the cases, the delay amounted to more than 60 working days; regrets that the Commission failed to comply with Regulation (EC) No 1049/2001 through its systematic breaching of the legal time limits for public access to documents and its failure to communicate its decision to the requesters in a timely manner, as shown in the Ombudsman's special report; underlines that, in line with the Ombudsman's assessment, these delays amount to maladministration by the Commission;
4. Underlines that the European Ombudsman plays an important role in facilitating citizens' access to documents, in particular when that access has been partially or completely refused by an EU institution, agency or body; strongly supports the Ombudsman's recommendations to the Commission on correcting this situation as a matter of priority;
5. Stresses the need to ensure that citizens are able to follow, understand and participate in the EU's decision-making processes; emphasises that the Commission, as the largest EU institution, should lead by example when it comes to access to documents; underlines that delays in granting access may undermine citizens' ability to participate in the democratic process, as the documents and information sought are often time sensitive and can lose relevance to the requester if delays occur; emphasises that delays may also result in a dissuasive effect, such that individuals opt not to exercise their fundamental right to access documents based on the assumption that it will take too long; underlines that the increasing volume and complexity of access-to-documents requests cannot justify the systemic delays on the Commission's side;
6. Is convinced that the proactive publication of documents in the register is the best solution to lower the number of access-to-documents requests and to avoid delays; stresses that a more proactive approach would help ensure effective transparency and prevent unnecessary legal disputes that could result in unnecessary costs and burdens for both citizens and the EU institutions;

Recommendations

7. Urges the Commission to correct its systematic and significant delays in processing

requests for public access to documents;

8. Calls on the Commission to implement the recommendation and all suggestions from the Ombudsman's special report, in particular on the need for more proactive transparency, more dedicated human resources to deal with confirmatory applications and a more open and constructive attitude towards requesters;
9. Calls for the Commission to reform its management of public access to documents in order to tackle the major issue of delays and its failure to respect time limits set out by the relevant legislation;
10. Calls on the Commission to be proactive in publishing documents and statistics on how it handles document-access requests, including information on compliance with the deadlines set by EU law, as such information is vital to strengthening the EU's democratic processes;
11. Stresses that, if the Commission does not address the systematic and significant delays in its processing of requests for public access to documents by the time the new College of Commissioners is established, Parliament will consider using all available parliamentary instruments to address the matter;
12. Requests that the Commission inform Parliament about how it plans to comply with the time limits laid down in the relevant EU legislation;

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13. Instructs its President to forward this resolution to the Commission.