

EUROPEAN EXTERNAL ACTION SERVICE



Parliamentary Affairs Division

Report of the European External Action Service

On Access to Documents

2017

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ANNUAL REPORT ON ACCESS TO DOCUMENTS

FOR 2017

A. Introduction

Article 17.1 of Regulation (EC) n° 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ¹ (hereafter referred to as “the Regulation”) provides that “*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.*”

B. Regulatory, administrative and practical measures

The legal and administrative basis for access to documents held by the EEAS is the HR/VP's Decision of 19 July, 2011. It should be noted that, as of 16 September 2015, handling of requests for access to documents was attributed to the Division for Parliamentary Affairs (SG.AFFGEN.2), in which a Transparency Team was created.

C. Key developments

Article 11 (1) of the Regulation (EC) N° 1049/2001 regarding public access to European Parliament, Council and Commission documents provides that “[...] *each institution shall provide public access to a register of documents. Access to the register should be provided in electronic form.* [...]”.

This e-EEAS Register was set up in the beginning of 2015. Therefore, documents that are registered in the new e-EEAS Register are only dated from 2015 onwards.

In 2016 the Transparency Team consulted the division in charge of the e-EEAS Register with a view to make the register more functional and raise awareness of the need to further promote registration in the register.

During 2017 we noticed a higher frequency of citizen requests coming in via the e-EEAS Register. In the Register, citizens can also access public EEAS documents directly i.e. without launching a request via our service. The number of documents accessed directly via our Register is therefore not included in the statistics below.

¹ OJ L145, 31.5.2001, p. 43.

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D. Initial applications for access to documents

The following table indicates the number of initial applications processed by the EEAS in 2017.

	Number of initial requests received
Q1	56
Q2	42
Q3	24
Q4	46
Total 2017	168 of which 44 requests (26%) came from the academic sector

A positive reply and full access to the documents requested was given to 61% of the initial applications (102 requests).

Partial access was given to 17% of the initial applications (28 requests).

13% of the cases (22 requests) were subject to a full refusal.

In 8 cases, there was no document held by the EEAS matching the request.

For 8 requests, additional information was asked from the requestor in order to better understand which document s/he was looking for, yet no answer was received.

The grounds for (partial or total) refusal most frequently evoked were²:

- The protection of the public interest as regards international relations (Art. 4(1)(a) third indent) for 78% of the cases (39 requests);
- The protection of the public interest as regards public security (Art. 4(1)(a) first indent) for 38% of the cases (19 requests);
- The protection of the public interest as regards defence and military matters (Art. 4(1)(a) second indent) for 24% of the cases (12 requests);
- The protection of the public interest as regards the financial, monetary or economic policy of the Community or a Member State (Art. 4(1)(a) fourth indent) for 6% of the cases (3 request);
- The protection of privacy and the integrity of the individual (Art. 4(1)(b)) for 38 % of the cases (19 requests);
- The protection of the commercial interests of a natural or legal person, including intellectual property (Art. 4(2) for 20% of the cases (10 request);

² The percentages given are that of the cases for which the document(s) was/were partially or totally refused, i.e. a total of 50 cases in 2017.

E. Cooperation with other Institutions for access to documents

During 2017, the EEAS replied to more than 15 consultation requests from the competent service of the Secretariat General of the European Commission. The EEAS also answered directly to numerous requests for which the Commission had indicated to the requestor that the competence had been transferred to the EEAS.

The EEAS was consulted regularly (55 times in 2017) by the transparency service of the General Secretariat of the Council, mainly on documents that were produced under the responsibility of services that were transferred from the General Secretariat of the Council to the EEAS at the time when the EEAS was set up. In addition, several consultations took place concerning documents produced after 1 January, 2011, when the EEAS was established.

There were also occurrences when the EEAS consulted the General Secretariat of the Council or specific DGs of the Commission, as originators of documents held by the EEAS. Extensive consultation between institutions also occurred on requests for access to documents, which had been sent in parallel to several institutions, or on topics of competence of another institution.

F. Consultation of third parties

In accordance with Art. 4(4), third States' administrations were consulted at several occasions with regard to requests for access to documents and correspondence held by the EEAS, but originating from a third State.

We also had several consultations in 2017 with CSDP missions, NGOs and other third parties.

G. Confirmatory applications for access to documents

In 2017, the EEAS examined fourteen confirmatory requests. The refusal to grant access to the documents requested was confirmed in eight cases, in four cases changed into partial disclosure and in two cases changed into a positive reply.

H. Further recourse concerning access to documents requests

In 2017, there were two complaints to the European Ombudsman against the EEAS regarding the implementation of Regulation in 1049/2001.

In both cases the European Ombudsman concluded that there had been no maladministration by the EEAS.